
Defendant.)

And a Jury

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SCOTT LEVASSEUR

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P R O C E E D I N G S

1
2 THE COURT: Any preliminary matters before we get
3 started?

4 MS. DAUGHTREY: Yes, Your Honor. Once opening
5 statements are done and the proof begins, the government has
6 notebooks for each of the jurors. Because the child pornography
7 is a little sensitive, we have prepared identical books for
8 everybody so that they -- so that we don't have to put it up on
9 the screen and require them to look at it there. We have done
10 this in many other cases. We did it in a case that Ms. Thompson
11 had with us a year ago. And it just helps to reduce the
12 discomfort that the jurors have for it.

13 So once I start introducing exhibits, to be able to
14 pass --

15 THE COURT: Are there going to be any issues of
16 admissibility?

17 MS. DAUGHTREY: Typically what I do, Your Honor, is
18 have Your Honor --

19 THE COURT: I don't have any problem with the notebooks
20 as long as there are no admissibility issues. I don't want some
21 notebook to be passed and then it turns out that there is an
22 objection to it.

23 MS. DAUGHTREY: Right. And what I would do is, for
24 each exhibit, ask Your Honor permission to enter it into
25 evidence and permission for the jurors to flip to that tab so

1 that they wouldn't able to flip to it prior --

2 THE COURT: Now, is there any objection to any of the
3 exhibits in the notebook?

4 MS. THOMPSON: Yes, Your Honor. My objections that I
5 had earlier regarding video versus images. My next objection
6 is --

7 THE COURT: I'm not sure I understand video versus
8 images. What is it about the pictures in the notebook that
9 poses a problem? If it's an issue about whether it's the same
10 dimensions or there is reliability, you all can present expert
11 proof on that, you can cross examine witnesses about that. But
12 is there any other issue about admissibility of exhibits in the
13 notebook? The government says it's not introducing videos.

14 MS. THOMPSON: When I saw them before, they said,
15 warning, child --

16 THE COURT: Let's deal with the exhibits that are
17 before the Court.

18 MS. THOMPSON: What's the number?

19 MS. DAUGHTREY: 24.

20 MS. THOMPSON: Your Honor, there is a cover page to
21 Exhibit 24, and it says, warning, Sexually Explicit Image. And
22 I disagree with it saying, warning, Sexually Explicit Image on
23 the front page. I think that doesn't need to be there. It's
24 additional information.

25 THE COURT: Well, the question is, is that what was on

1 the computer, isn't it? whether it needs to be there or not, if
2 it's what was on the computer, that's the question, isn't it,
3 for authenticity?

4 MS. THOMPSON: well, this right here, this page that
5 they have in there, was not on the computer. And I object to
6 this page right here.

7 THE COURT: They say Exhibit 24 wasn't on the computer,
8 Ms. Daughtrey.

9 MS. THOMPSON: And this image --

10 THE COURT: wait a minute, counsel, if you would,
11 please. Is Exhibit 24 from the computer?

12 MS. DAUGHTREY: No, Your Honor. This a cover page for
13 the child pornography that follows. And all it says is, Exhibit
14 24, thumbnail image and video screen shots. And there will be
15 testimony as to that.

16 THE COURT: Did it come off the defendant's computer?

17 MS. DAUGHTREY: No, Your Honor. It did not come off
18 the computer.

19 THE COURT: Where did it come from?

20 MS. DAUGHTREY: In preparing the exhibit, it's just a
21 cover page that the government produced for it that just
22 warns --

23 THE COURT: A cover page from where? Is it the
24 manufacturer's cover? Is it the distributor's cover? was it
25 commercially available? was it inside his house? Where was it?

1 MS. DAUGHTREY: No, Your Honor. If I may approach and
2 just hand it to you, I think it might help you understand what
3 it is. It's not meant to be part of the exhibit. It's just
4 meant to identify it as being Exhibit 24.

5 THE COURT: well, I will sustain the objection. If we
6 don't need it, I don't see the point in introducing it. That's
7 commentary on the exhibit, is what it is.

8 MS. THOMPSON: My next objection, Your Honor, we still
9 have issues with the authenticity of the two thumbnail videos.
10 But I believe we're going to be able to check those.

11 THE COURT: Is the government's expert going to be able
12 to testify that these came off the defendant's computer?

13 MS. DAUGHTREY: Yes. That is correct, Your Honor.

14 THE COURT: well, you can cross examine them about it.
15 If they say this came off the computer, it came off the
16 computer. And if it didn't, you can question them about it, or
17 your expert can challenge them on it.

18 MS. THOMPSON: Yes, Your Honor.

19 THE COURT: With that comment, the objections to --
20 substantive Exhibits 24 and 25 are admitted without objection.
21 Are admitted with objections noted.

22 MS. THOMPSON: And then I have additional objections,
23 Your Honor. That Page 3 --

24 THE COURT: What is Page 3, ma'am? What is the
25 objection to Page 3, and what is it?

1 MS. THOMPSON: So I have objections to these items as
2 they are not exactly what was on the computer, Your Honor.

3 THE COURT: Is this the same objection as with 24 and
4 25?

5 MS. THOMPSON: This the objection -- it's all one
6 collective exhibit. But this objection is that these still
7 photographs were not on my client's computer. They are --

8 THE COURT: Hold on a minute. What exhibit number is
9 this?

10 MS. THOMPSON: It's all the same exhibit.

11 MS. DAUGHTREY: It's Exhibit 24. There will be
12 testimony about where those screen shots came from, Your Honor.
13 And they originated from a video that was on the defendant's
14 computer. I think it's proper for cross examination, but all
15 this material came from his computer. And that's what the
16 testimony will be.

17 THE COURT: So these images -- all the images in
18 Exhibit 24 come from the defendant's computer, were on it, and
19 downloaded from it?

20 MS. DAUGHTREY: There are two thumbnail images that we
21 have discussed and three videos. Rather than playing the
22 videos, what the forensic examiner did -- instead of playing it
23 for the jurors and having them have to watch it, what he did is
24 he took parts of the video, and that's the exhibit. So it's
25 part of the video, but it's not the full video. It's not every

1 screen shot in the video. It's just a very limited number of
2 screen shots that come from the video.

3 THE COURT: But the expert is going to testify that
4 these -- the remaining portions of Exhibit 24 came from the
5 defendant's computer?

6 MS. DAUGHTREY: That is correct.

7 MS. THOMPSON: My objection would be, Your Honor, that
8 they were created with a different software, they are screen --

9 THE COURT: Well, you can cross examine the witness on
10 those grounds.

11 MS. THOMPSON: Yes. And Your Honor, may my expert sit
12 up here so that I may consult with him?

13 THE COURT: Yes, that's fine.

14 All right. Any other objections to the exhibits in the
15 government's notebook?

16 MS. DAUGHTREY: If I may have one moment, please.

17 THE COURT: All right.

18 MS. DAUGHTREY: I believe that's all, Your Honor.

19 THE COURT: All right. After -- when you introduce the
20 first exhibit, I will allow to you present the notebooks.

21 MS. DAUGHTREY: Thank you, Your Honor.

22 THE COURT: I'm going to give a short preliminary
23 instruction. It takes about ten minutes. You can bring the
24 jury in.

25 (Jury in.)

1 THE COURT: You may be seated. Good afternoon, ladies
2 and gentlemen of the jury. The Court apologizes for the brief
3 delay in getting started, but I think we've got things organized
4 to make the rest of the trial maybe go a little bit more
5 efficiently.

6 (Whereupon, a charge was given to the jurors and
7 opening statements were held, after which the following
8 proceedings were had, to wit:)

9 THE COURT: The government may call your first witness.

10 MS. DAUGHTREY: Thank you, Your Honor. The government
11 calls Scott Levasseur.

12 (Witness sworn.)

13 THE CLERK: Please state your name for the record and
14 spell it.

15 THE WITNESS: Scott Lee Levasseur. L-e-v-a-s-s-e-u-r.

16 DIRECT EXAMINATION

17 BY MS. DAUGHTREY:

18 Q. What is your occupation, your profession?

19 A. I work at Dickson County Sheriff's Office as a
20 computer forensic examiner and Internet Crimes Against Children
21 investigator.

22 Q. How long have you been employed by the Dickson
23 County Sheriff's Office?

24 A. Since 1998.

25 Q. And what is your primary work at this point in

1 time?

2 A. My primary work is computer forensic
3 examinations. And I'm in charge of the Internet Crimes Against
4 Children Task Force.

5 Q. Can you explain what the Internet Crimes Against
6 Children Task Force is?

7 A. It derives from the Department of Justice, and
8 it's all across the country. In Tennessee the lead organization
9 is Knoxville. And then we're sister agencies to Knoxville.
10 They get the grant money, and we get our training through them.
11 And basically we investigate child pornography crimes on the
12 Internet and solicitation crimes of children like undercover
13 chat operations and stuff like that.

14 Q. And this Internet Crimes Against Children is
15 often -- about it used as an acronym ICAC; is that correct?

16 A. Yes.

17 Q. What hours do you typically work?

18 A. Typically I work six in the morning until two in
19 the afternoon, but it all depends on what I'm doing. It changes
20 quite often.

21 Q. How long have you been doing the forensic exam
22 work and the on-line child exploitation investigations?

23 A. I started with computer forensics in the end of
24 2006 and started with ICAC I believe in 2007.

25 Q. Have you received specialized training for these

1 areas?

2 A. Yes, ma'am.

3 Q. Okay. How much training have you received?

4 A. I believe it's over a thousand hours of training
5 for computer forensics and ICAC training together.

6 Q. Are you certified in any special areas?

7 A. I'm certified -- it's called a CFCE, certified
8 forensic computer examiner, through IACIS. And IACIS is an
9 organization, an international organization. It's called the
10 International Association of Computer Investigative Specialists.
11 And I am certified through ICAC to instruct other law
12 enforcement officers on peer-to-peer operations.

13 Q. Do you ever train other law enforcement
14 officers?

15 A. I do.

16 Q. And what kind of training do you provide?

17 A. I provide computer forensic training, cyber
18 crime training for regular detectives, fraud. Any kind of
19 computer-related crime, I've done classes on those. And also
20 evidence handling, digital evidence handling. And I also
21 instruct peer-to-peer investigations.

22 Q. Have you received any recognition for your
23 computer forensics work or your ICAC work?

24 A. I received a few letters of recognition from
25 different district attorneys and law enforcement officials.

1 Q. How many computer systems would you estimate
2 that you have analyzed in a forensic manner?

3 A. Over 500.

4 Q. And how many computer crime investigations have
5 you conducted or participated in?

6 A. Over 200.

7 Q. What types of crimes have you investigated --
8 computer-type crimes have you investigated?

9 A. We investigated child pornography crimes, child
10 solicitation crimes. I do computer forensic exams for all of
11 that, plus any other type cases that is requested of me to do.

12 Q. Is the majority of your work with the child
13 exploitation?

14 A. About 80 percent of it; yes, ma'am.

15 Q. And about how many child exploitation cases do
16 you think you have been involved with over the course of your
17 career?

18 A. Over 200.

19 Q. Have you ever been recognized in a court of law
20 as an expert witness in computer forensics?

21 A. Yes.

22 Q. Is that in state or federal court?

23 A. Both.

24 Q. And have you testified, then, about computer
25 forensics in court?

1 A. Yes, ma'am.

2 MS. DAUGHTREY: Your Honor, at this time the government
3 would move to have Scott Levasseur declared an expert in the
4 field of computer forensics and online child exploitation
5 investigations.

6 MS. THOMPSON: Well, Your Honor, I object to him being
7 an expert in the field --

8 THE COURT: Approach the bench please.

9 (Whereupon, a bench conference was held, out of the
10 hearing of the jury, to wit:)

11 THE COURT: What is your objection?

12 MS. THOMPSON: I'm sorry, did you say and in child
13 investigations?

14 MS. DAUGHTREY: Yes, child exploitation investigations.

15 MS. THOMPSON: Yes, I object to that, Your Honor. I
16 haven't -- when we were here before, I specifically said I
17 objected to him testifying to anything else. And it was my
18 understanding that he was only going to have him be a computer
19 forensic expert. Now the government is saying they want him to
20 be certified as something else, child --

21 MS. DAUGHTREY: I'm not asking him to be certified. He
22 is an expert because he's got all the experience in the child
23 exploitation --

24 THE COURT: Well, I didn't hear that much child
25 expert --

1 MS. DAUGHTREY: I'm sorry?

2 THE COURT: How many years?

3 MS. DAUGHTREY: Since 2007.

4 MS. THOMPSON: But this occurred in 2009. So any
5 expertise that he would have had when he was doing these
6 reports, you know, that's all over -- I'm not prepared for this.
7 This why I specifically had raised this earlier. The government
8 said they were only going to have him certified as a computer
9 forensic expert, and he would be a fact witness. He can be a
10 fact witness, but I object to him coming in -- I didn't hear
11 anything that would make me think that he specifically -- I
12 don't even know what this field is, this computer --

13 MS. DAUGHTREY: What he's going to be testifying to as
14 his experience in child exploitation are things like the
15 training that he has gotten, information about search terms,
16 what they mean, certain series of child pornography.

17 THE COURT: I don't recall hearing that yet.

18 MS. DAUGHTREY: Yeah, that's correct.

19 THE COURT: Without that, he can't be declared an
20 expert. He is not accredited yet. He has specialized
21 knowledge, he established it on computers. But I don't know if
22 he established it on this particular discipline. I sustain the
23 objection.

24 MS. DAUGHTREY: All right.

25 THE COURT: Why don't we send the jury out, and we will

1 go over this so we don't have to have these bench conferences.

2 (Conclusion of bench conference.)

3 THE COURT: Ladies and gentlemen of the jury, I'm going
4 to excuse you for a few minutes. Please don't discuss the case
5 amongst yourselves until you receive all of the evidence, the
6 argument of counsel and the charge of the Court. Hopefully it
7 will be a brief recess. Okay? Thank you. You can leave your
8 pads on your chairs. The Marshal will look after them.

9 (Jury out.)

10 THE COURT: I will allow to you voir dire on the
11 predicate for why this witness is an expert in child
12 pornography.

13 MS. DAUGHTREY: Okay.

14 EXAMINATION

15 BY MS. DAUGHTREY:

16 Q. Detective Levasseur, how many hours of training
17 have you received as part of your -- as part of -- being a part
18 of ICAC, the Internet Crimes Against Children?

19 A. I didn't separate the totals, but if I'm
20 thinking correctly, it's over a thousand hours total for
21 computer forensics and ICAC training. And I'm thinking it's
22 pretty much 50/50. So 400, 500 hours for each field.

23 THE COURT: What is ICAC?

24 BY MS. DAUGHTREY:

25 Q. Can you explain what ICAC means?

1 A. Internet Crimes Against Children.

2 Q. Okay. And in those Internet Crimes Against
3 Children trainings that you have been to, what kind of
4 information -- what are you being trained on? What are you
5 learning?

6 A. Different subjects. I have had training in
7 peer-to-peer, online chat investigations, just general topic
8 ICAC training for different things, to include upcoming
9 technologies and just a vast array of different things dealing
10 with ICAC investigations.

11 Q. What is the purpose of those ICAC trainings?

12 A. To keep us up to date and train us on how to do
13 the investigations and how to stay within the legal boundaries.

14 Q. Do you -- are you specifically learning how to
15 do those investigations, then?

16 A. Some classes, yes. If it's a peer-to-peer
17 class, then your -- that class is about peer-to-peer. And
18 there's several different peer-to-peer classes. And they teach
19 you basically the same stuff, but it's different because it's a
20 different technique or a different network. For example,
21 undercover chat would be -- I have been to a couple of those
22 because things change through the years, and they update the
23 class, and you learn new things, new techniques. And then just
24 the yearly training that we get. We get like two yearly
25 trainings. It's like for a three day period, and it's just a

1 vast array of different topics that you learn about.

2 THE COURT: The question here concerns child
3 pornography. Could you quantify what that is?

4 THE WITNESS: I can't hear you, Judge.

5 THE COURT: This case is -- she is asking to certify
6 you as an expert on child pornography. Could you quantify what
7 amount of your yearly training involves child pornography?

8 THE WITNESS: I'm tasked with performing child
9 pornography examinations for a vast array of departments, to
10 include federal, state and --

11 THE COURT: I mean the question is, you testified about
12 how much training you get yearly.

13 THE WITNESS: Yes, sir.

14 THE COURT: How much of that -- what percentage of that
15 training is on child pornography?

16 THE WITNESS: I couldn't give a -- I couldn't give an
17 hour -- an hour number on it.

18 THE COURT: Just a rough estimate on the percentage.

19 THE WITNESS: I would guess maybe a hundred hours out
20 of the total 400 hours for ICAC would be specific to the
21 peer-to-peer investigations, because peer-to-peer investigations
22 are nothing but child pornography. That's what you are
23 investigating.

24 THE COURT: As I understood you earlier, you said you
25 had about a thousand hours of training, and you estimated that

1 half of it was ICAC; is that right?

2 THE WITNESS: I'm having problems hearing you, Your
3 Honor.

4 THE COURT: I understood you to testify earlier that
5 you had about a thousand hours of training?

6 THE WITNESS: Yes, sir.

7 THE COURT: And that half of that was ICAC?

8 THE WITNESS: About -- yes, sir.

9 THE COURT: You then testified that you get yearly
10 training. And my question to you was, how much of your yearly
11 training is on child pornography?

12 THE WITNESS: I don't believe any, sir.

13 THE COURT: You can't estimate a percentage of how much
14 of your yearly training is on child pornography?

15 THE WITNESS: The yearly ICAC training that I'm
16 referring to is a class that Knoxville puts on here yearly, and
17 they cover different topics to do with ICAC investigations, but
18 nothing specific to child pornography.

19 THE COURT: How much of your training is on ICAC?
20 Yearly training is on ICAC?

21 THE WITNESS: I would guesstimate about 400 hours.

22 THE COURT: Yearly?

23 THE WITNESS: No, no, no. That's since I started.

24 THE COURT: In 2009, how many hours did you have in?

25 THE WITNESS: Oh, not much. I just had one class in

1 2009.

2 BY MS. DAUGHTREY:

3 Q. In 2009, had you had a class in peer-to-peer
4 investigations and how to run those?

5 A. I had been trained and licensed to operate
6 peer-to-peer investigations, yes.

7 Q. What do you mean by you had to be trained and
8 licensed?

9 A. To use the software provided by ICAC and
10 everything, you have to have a license. When you complete
11 training, they give you a license number. Everything is
12 Internet based. And in order to get the software from ICAC,
13 you've got to have a license. In order to operate the software
14 and get the information from ICAC, you've got to have a license.
15 So that's why I say you are licensed. Once you complete the
16 training, you are licensed, and you are allowed to investigate.

17 Q. And as part of the training for your
18 investigation that you had received up to that point, had you
19 received any training about search terms or child pornography
20 series?

21 A. In that class that I took for peer-to-peer
22 investigations, yes, ma'am.

23 Q. Okay. And can you tell us a little bit more
24 about what that is or what the purpose of the search -- learning
25 about the search terms and the --

1 A. Back then, in 2009, the software and everything
2 we used was -- any investigations we did were more manual. So
3 in trying to find targets in your jurisdiction, you would type
4 in search terms and look for the IP addresses that correlate to
5 your jurisdiction that were trafficking in child porn. So
6 search terms were very important to try to find child porn
7 files, one, and people within our jurisdiction trafficking in
8 child porn files. So that's why we receive training on search
9 terms.

10 Q. Okay. And as part of those search terms, does
11 that include child pornography series?

12 A. Excuse me?

13 Q. Does that include child pornography series
14 names?

15 A. Some of those search terms, yes.

16 Q. And what is a child pornography series?

17 A. A series is one victim, a child, that's in
18 numerous different either images or videos. It's the same
19 child, but it may be a totally different day, different year,
20 different time. And they are known by a particular name. Like
21 the Vicky series. That's not her name. Somebody named the
22 series Vicky somewhere along the way. And that's -- that name
23 stuck and followed through, years and years through.

24 Q. And so all of the material that involves that
25 particular girl is known as the Vicky series?

1 A. Correct.

2 MS. DAUGHTREY: Okay. Perhaps the better request by
3 the government is to have him declared as an expert in
4 peer-to-peer investigations rather than just a generic child
5 pornography investigator.

6 THE COURT: Any voir dire cross examination?

7 MS. THOMPSON: Yes, Your Honor.

8 VOIR DIRE CROSS EXAMINATION

9 BY MS. THOMPSON:

10 Q. Okay. You said that peer-to-peer investigation
11 is only about child pornography?

12 A. Yes, ma'am.

13 Q. Okay. So if you were trying to find people that
14 were downloading movies that were pirated and copyrighted, a lot
15 of that sharing is done by peer-to-peer also, isn't it?

16 A. We don't do that, ma'am.

17 Q. Okay. But you said peer-to-peer was just about
18 child pornography?

19 A. Yes, ma'am.

20 Q. And peer-to-peer can be used for other things
21 also; is that right?

22 A. As it refers to ICAC, the Internet Crimes
23 Against Children, that's all we deal with is child pornography.

24 Q. Okay. And you did this investigation and
25 created this report in 2009; is that correct? The one in this

1 case?

2 A. Correct.

3 Q. And that is in April, May and June of 2009?

4 A. Correct.

5 Q. Okay. And in order to do that investigation,
6 you did fill out a state search warrant that you used to go into
7 Mr. Tummins' house; is that correct?

8 A. Correct.

9 Q. And in your state search warrant, in your
10 affidavit supporting it, paragraph two, you actually put down
11 what kind of training you had had at that time; is that correct?

12 A. Correct. I haven't read that search warrant in
13 a long time, so I'm assuming --

14 A. Okay. And so at that time, a lot of your
15 initial training had been simply how to get forensic information
16 off of computers; is that right?

17 A. I would have to read the search warrant to tell
18 you what it says.

19 Q. Well, if you looked at the search warrant, would
20 that refresh your memory?

21 A. Yes, ma'am.

22 Q. Okay.

23 A. Yes, ma'am. At that time most of my training
24 was forensics.

25 Q. Okay. So one of the classes you listed here was

1 Cybercop 101 Basic Data Recovery and Acquisition put on by the
2 National White Collar Center Computer Crimes Section?

3 A. Yes, ma'am.

4 Q. So you would agree with me that that didn't have
5 anything to do with child pornography at that time?

6 A. No, ma'am.

7 Q. And then you went to Cybercop 201, Intermediate
8 Data Recovery and Analysis with the National White Crime
9 Computer Center. You would agree that that has nothing to do
10 with -- ?

11 A. That's -- no.

12 Q. And then you took a certification in Electronics
13 Evidence Collection Specialist at IACIS 2007. And that's just
14 about collecting data; is that right?

15 A. No, it's about collecting the physical evidence.

16 Q. Physical evidence?

17 A. The computers and the hard drives and stuff.

18 Q. Okay. And then you had a University of
19 Tennessee Law Enforcement Innovation Center Cyber Crime Training
20 Investigation 2007. But that's not specifically related to
21 child pornography?

22 A. It touched on it, but not in depth.

23 Q. Then you did a boot camp in Access Data
24 Forensics. And Access Data for Windows Forensics in 2007. And
25 that's not related to child pornography. And then you did

1 another Access Data Vista Forensics. And that's just related to
2 an operating software and not related to child pornography.
3 okay.

4 And then you did another Computer Forensic Examiner and
5 that's put on by IACIS, International Association of Computer
6 Forensic Specialists. That was in 2008. Does that sound right?

7 A. Yes, ma'am.

8 Q. And again, that's just about computer forensics.
9 That's not related to child pornography?

10 A. No, ma'am.

11 Q. And you did another training with them about the
12 black bag technology for Macintosh computer and FTK; is that
13 right?

14 A. Yes, ma'am.

15 Q. Not related to child pornography?

16 A. No, ma'am.

17 Q. Okay. So then it looks like you had a class,
18 this ICAC class, that was in 2008 in Columbus, Ohio>?

19 A. In 2007 I had intern training at Knoxville
20 Police Department ICAC unit on undercover and peer-to-peer
21 operations.

22 Q. Is that listed in the search warrant?

23 A. That's in the search warrant. And then right
24 after it, it says in 2008 I received peer-to-peer undercover
25 training from Knoxville ICAC, again in 2009. In 2007, 2008 and

1 2009 in Knoxville.

2 Q. Okay. But that was further down. I hadn't
3 gotten there yet.

4 A. Okay.

5 Q. Is that right? Okay. But this other thing that
6 you did, the Advance Windows Forensic -- I'm sorry. The on-line
7 child crimes and advance computer forensics at Safe Project --
8 at Project Safe Childhood -- that was related to cyber crimes
9 and children; is that right?

10 A. Correct.

11 Q. Okay. And that's your first one that we've
12 gotten to. So do you say there is one from 2007 also?

13 A. Yes, ma'am.

14 Q. The next line. So it's out of date order. And
15 it was on undercover peer-to-peer operations?

16 A. Correct.

17 Q. And then you had gone to one more. So you had
18 three peer-to-peer classes you had done in that time out of all
19 that other training?

20 A. Correct.

21 Q. Okay. So that the class that you took in 2008,
22 the ICAC class and Project Safe Neighborhood -- those classes
23 were less than a week long; right? None of those classes were
24 like a week-long training session?

25 A. Not the Project Safe Childhood classes, no.

1 Q. And the ICAC class, though, that you took in
2 2007 and 2008, they were not week-long classes?

3 A. I believe they were -- I believe they were four
4 days.

5 Q. Okay. Four-day classes. All right. So at this
6 point you had had two four-day classes? Is that fair to say?

7 A. According -- according to my affidavit, it's
8 three classes for peer-to-peer.

9 Q. Okay. And your memory is that they would have
10 been four days?

11 A. I believe they were, yes.

12 Q. And certainly at that time you weren't teaching
13 anybody anything, though; is that right?

14 A. No, no.

15 Q. So you were just beginning to learn, yourself?

16 A. Yes.

17 Q. Okay. And you had only been working in this
18 area since October of 2007; is that right?

19 A. In ICAC?

20 Q. Yes. Well, yeah, just in the area of Internet
21 crimes in Children's Task Force?

22 A. Yeah, it was in 2007/ I don't remember which
23 month.

24 Q. Well, if it says in your affidavit on the first
25 page October of 2007, you wouldn't think that would be

1 incorrect, would you?

2 A. Well, actually that's a type-o, because it says
3 here: Affiant has been employed by Dickson County Sheriff's
4 Office -- oh, no, I'm sorry, since 1998. Since October 2007,
5 yes. Okay. That's correct.

6 Q. And when we're talking about an expert in
7 peer-to-peer technology, what exactly would that mean you would
8 be qualified to testify about?

9 A. Well, I'm just assuming that being an instructor
10 for peer-to-peer means that I probably know more about it than
11 the average person.

12 Q. But that would be now, currently; is that right?

13 A. Yes.

14 Q. And certainly was not the case back in 2009 when
15 you did the report or did this investigation?

16 A. No.

17 MS. THOMPSON: No further questions.

18 MS. DAUGHTREY: Your Honor, if I may.

19 THE COURT: All right.

20 MS. DAUGHTREY: I'm not trying to establish him as
21 having been a peer-to-peer investigator expert back at the time
22 he did this. I'm asking that he be declared an expert today on
23 the stand. He clearly had a lot of training back then. But if
24 you will look -- his CV has been included for your -- in one of
25 the government's filings. It's Docket Entry Number 113. And in

1 that, not only are there all of these classes that he is talking
2 about, but there's lots more over the years that he continued
3 since then.

4 And I'm not asking that he be declared as an expert as
5 of the time that he did this. I'm asking that he be able to
6 testify as an expert today on the stand about what peer-to-peer
7 investigations are, what these search terms mean, that kind of
8 thing, related to the investigation of child pornography on
9 peer-to-peer networks.

10 MS. THOMPSON: Your Honor, I strongly object to this,
11 because this was the specific point of my motion in limine that
12 I had filed earlier. The government said at that time he was
13 only going to be certified as a computer forensic specialist or
14 expert. And so now the government is trying to throw in
15 something about children crimes, peer-to-peer. And Your Honor,
16 I object to that. My very motion had said I didn't want him
17 testifying as to what these terms meant or things like that. I
18 object to now them changing -- I don't have an expert to match
19 this, Your Honor. And I would at least like to take some type
20 of break so I can go do some research as to what it is they are
21 wanting him to testify regarding search terms, things like that.

22 I have an expert here who is listening to him testify
23 regarding computer forensics. My expert is a computer forensics
24 expert. He is here to listen to what Scott Levasseur says, and
25 then provide me with any type of information I need to

1 effectively cross examine him.

2 THE COURT: Anything else?

3 MS. DAUGHTREY: Your Honor, may I be heard just
4 briefly. In the government's responses to Ms. Thompson's
5 motions in limine, each one of those says -- the government's
6 position is he is qualified to testify about these search terms
7 and their meaning because of his experience as an investigator
8 of child exploitation crimes. I think it was very clear
9 throughout those filings that that was the basis upon which the
10 government he would be able to testify about those things.

11 THE COURT: I think some issues arose because of the
12 report that was submitted as the expert report is a 2009 report.

13 MS. DAUGHTREY: which includes all of those search
14 terms and that kind of thing. So she was put on notice that he
15 would be testifying about those things.

16 THE COURT: If you don't mind letting me finish.

17 MS. DAUGHTREY: I'm sorry, Your Honor. I'm very sorry.

18 THE COURT: The Court believes that the best
19 characterization of this witness is what was in the government's
20 response. That he is an experienced investigator of online
21 child exploitation and computer forensic analyst. The Court
22 will allow him to testify as a person with specialized
23 knowledge. The problems arose because of his 2009 report.
24 Since he has since 2009 received adequate experiences and
25 training to testify as to what terms mean. And the 2009 report

1 actually just contains files that are listed under certain
2 names. And based on his subsequent experiences and training, he
3 will be allowed to relay to the jury what he learned those terms
4 to mean that you referred to.

5 You can bring the jury in.

6 MS. DAUGHTREY: Thank you, Your Honor.

7 (Jury in.)

8 THE COURT: You may be seated. Once again, ladies and
9 gentlemen of the jury, I want to apologize for these
10 interruptions. I can assure you that these conferences are
11 necessary to make sure we don't make any mistake that requires
12 us to do this all over again. Some of you may be old enough to
13 remember the pogo stick. There will be occasions during this
14 trial where you may feel like you are on a pogo stick. But I
15 assure you that these are necessary, and if you have any
16 frustrations, take them out on the Court, not counsel and the
17 parties.

18 MS. DAUGHTREY: Your Honor, I believe when we broke,
19 the government --

20 THE COURT: Do you want to ask your next question?

21 MS. DAUGHTREY: Okay. Thank you, Your Honor.

22 BY MS. DAUGHTREY:

23 Q. Detective Levasseur, --

24 THE COURT: Ladies and gentlemen of the jury, the Court
25 will allow this witness to testify as a person with specialized

1 knowledge as an experienced investigator of child exploitation
2 as a forensic computer analyst.

3 BY MS. DAUGHTREY:

4 Q. In talking about your specialized training,
5 Detective Levasseur, you mentioned something about conducting
6 peer-to-peer investigations. Can you explain what is meant by
7 peer-to-peer?

8 A. Peer-to-peer is a network that piggybacks on the
9 Internet. And you have to have software on your computer to
10 utilize it. And you connect to other computers across the
11 Internet that are using the same type network to share files.
12 Any types of files, basically.

13 Q. And what are these peer-to-peer networks, or
14 file-sharing networks, typically used for?

15 A. Most what everybody recognizes file-sharing
16 mostly is music. They download music off peer-to-peer file
17 sharing, but very -- used an awful lot for pornography and child
18 pornography, program files, video games, any type of file that
19 can be transmitted digitally.

20 Q. Have you prepared some slides that help explain
21 what a peer-to-peer network is?

22 A. I have.

23 Q. If I may approach and hand what is marked as
24 Government Exhibit Number 3, which has previously been provided
25 to the defense. Do you recognize -- ?

1 A. Yes, ma'am. I made these.

2 Q. Okay. Your Honor, at this time this is a
3 demonstrative exhibit, and I would ask permission to publish it
4 to the jury via this overhead projector.

5 THE COURT: Without objection, you may do so.

6 BY MS. DAUGHTREY:

7 Q. It takes a moment for that to focus in. So what
8 is this top picture of, this server based? What does that mean?

9 A. It's just a visual depiction to help explain a
10 peer-to-peer network versus a server based network. A server
11 based network, I can explain it to you like Facebook. When you
12 get on the computer and go on to Facebook, you are accessing
13 Facebook's server. And all of the pictures and comments and
14 everything that you see on Facebook are on a server,
15 centralized. In a peer-to-peer network, there is no centralized
16 server. The software that you download to your computer allows
17 to you connect to other computers that have the same software.
18 And files are seen and transferred, uploaded and downloaded
19 directly from computer to computer, and not through a server.

20 Q. Does this peer-to-peer network require somebody
21 to use the Internet?

22 A. Yeah, you have to have the Internet in order to
23 use this network. It piggybacks on another network. And
24 another explanation. When you are on Facebook and you go to
25 your mother's page on Facebook, you are not actually on your

1 mother's computer; you are on the server. In a peer-to-peer
2 network, when you go to somebody's shared folder, you are
3 actually in on their shared folder.

4 Q. So you are in that other person's computer?

5 A. Correct.

6 Q. All right. I'm going turn to the second slide
7 here. Can you explain what this represents?

8 A. This is a visual depiction to help explain how
9 people search for and receive files. But the top computer would
10 be your computer that you are sitting at. And let's just say
11 that you wanted to download a MP-3 file called Billie Jean. You
12 would type in the key word, search, then you would type in
13 Billie Jean and click Search for music, and it would go out on
14 the Gnutella network and hit an alter peer, who would send that
15 request out to a bunch of other peers. And peers are nothing
16 more than other computers, just like yours. And it spider webs
17 it out. And it requests that anybody having a file with the
18 name Billie Jean in it, mp3, we want it, so tell us that you've
19 got it. And if your neighbor had that file, a file with the
20 name Billie Jean in it, it would respond -- its software would
21 respond to your software and say, hey, I've got that file, and
22 here it is. And everybody else who has that file would say,
23 here it is.

24 And that's how the peer-to-peer network works.

25 You send out a request for a certain file, you get responses

1 back saying, I have it. And then you can choose who you want to
2 get it from or which one you want to click on to get.

3 Q. Now, you are talking about, when you are doing a
4 search, putting in a file name. Is it required that you put a
5 file name in?

6 A. Yes, ma'am. Well, not a file name. A search
7 term.

8 Q. Explain that.

9 A. Well, let's just say you were wanting to
10 download a song named Billie Jean. You wouldn't type in Song
11 and search for Song, because you would get hit with any file
12 that had the name Song in it. Any file name out there that it's
13 searching with the name Song in it. So you have to try to be
14 specific for what you are searching for. So if you wanted the
15 Billie Jean mp3 you would type in Billie Jean. Now, just
16 because you typed in Billie Jean mp3 the results you get, it
17 doesn't mean that that's going to be the mp3 you are looking
18 for, because it's just going to give you hits for all the file
19 names out there that have Billie Jean in them.

20 So you may get what you are looking for, and you may
21 not. But you have to choose what you want to download after you
22 get your results in the result page.

23 Q. So if I wanted to look for Taylor Swift songs, I
24 could just type in Taylor Swift?

25 A. Correct.

1 Q. I wouldn't have to type in TaylorSwift.mp3;
2 correct?

3 A. If you typed in Taylor Swift, you would get any
4 file that had Taylor Swift's name in it. So if you want to be
5 more specific -- I don't know Taylor Swift's songs, but you type
6 in a song's name, and you would have a better chance of finding
7 what you are looking for by narrowing down what exactly you are
8 looking for.

9 Q. So like in Google, the more specific you are in
10 your search, the more specific you get?

11 A. Correct.

12 Q. So once you do a search, do you get -- do you
13 get a list of files? Or what comes back? What do you see?

14 A. You get a list of files from computers from
15 wherever they are. They could be anywheres in the world,
16 reporting back to you that they have a file with that key word
17 that you typed in, key word or words that you typed in, and
18 showing back to you. If you type in more than one word, you're
19 going to get hits on either both of the words together or one
20 singular. Like if you type in Fast Car, well, you will get
21 results back for files that had Fast in it, Fast Car in it, or
22 just Car. So --

23 Q. You get all three?

24 A. You can get all three.

25 Q. What do you actually see? It sounds like you

1 see the file name; is that correct?

2 A. When you request -- do a search, you are given
3 back, and you see the file name, the file type, whether it's
4 like an ABI file, mpeg, picture file or a music file. And you
5 see the size of the file. And then, depending on how your
6 software is set up, you can see what type of connection you have
7 with the other computer.

8 Q. Can you see the content of the file?

9 A. No, you cannot see the content.

10 Q. How do you get to see the content?

11 A. In order to see the content of the files that
12 they are reporting back to you, you have to download them.

13 Q. So when someone searching for something, and
14 they get this list of files that has their search term in it,
15 how do they actually do the download?

16 A. Depending on what software you are using, most
17 of them allow you to -- you can use your mouse to click on a
18 particular file and highlight it. If you click once, it will
19 highlight it, and then you can go to the radio button and click
20 download. Or you can double click to download it. Or you can
21 right click on it and then choose download. There's about three
22 different ways. But you have to click on it at least twice to
23 get it to download.

24 Q. Do you pick a specific computer that you
25 download the file from?

1 A. As police, we normally do.

2 Q. I'm talking about just your average user.

3 A. Anybody using, like let's say Limewire, you can
4 you're going to get a -- whoever returns searches to you that
5 says, hey, I've got a file with Billie Jean in it, if you click
6 on that file, highlight it, if it's available, you can browse
7 that computer, that file, by clicking the browse host. If they
8 allow you to do it. If the settings are set for them to allow
9 to you browse.

10 So a browse means nothing more than, hey, let me see --
11 you've got the Billie Jean file. Let me see what other files
12 you've got that I might be interested in. So then it displays
13 to you all the files they have available for upload.

14 Q. Where on a computer -- if you are, for example,
15 looking on my computer and you see that I have a Billie Jean
16 file, where would that file from your perspective be on my
17 computer?

18 A. It would be in whatever was designated as the
19 share folder. If you install any file sharing application, they
20 have a default set up. They default to certain settings. They
21 put the program file -- when you install it, it puts the program
22 file somewhere, and it puts a system file somewhere. And they
23 will put a shared folder and an incomplete folder wherever their
24 default is. And it varies with different versions of the
25 software.

1 But when you install it, you can choose where you want
2 that to be. You can choose -- if you want to add other folders
3 to share, you can choose -- if you want to share your whole
4 computer, your whole C drive, you can configure it however you
5 want. So there is really no set place, because that can be
6 anywheres on the computer.

7 Q. And when somebody is accessing a computer and
8 looking at their shared -- someone else's shared folder, they
9 are doing that through a peer-to-peer program; is that correct?

10 A. Excuse me, ma'am?

11 Q. If someone is looking at a shared folder on
12 another computer, they have to use a file sharing program or
13 peer-to-peer?

14 A. Yes, ma'am. You have to be on the same network
15 and have the software.

16 Q. All right. I would like to turn to the third
17 slide. What is that?

18 A. These are just icons showing examples of the
19 typical peer-to-peer software clients that are available out.
20 You have different networks like BitTorrent and Gnutella and
21 Shareaza. Morpheus is in there. EMule is a different network.
22 But they all -- they are all file-sharing applications.

23 Q. Okay. Thank you. Turning to your investigative
24 role, generally speaking, how it is that you conduct an
25 undercover peer-to-peer investigation? And I'm going to go

1 ahead and put up the fourth slide for your discussion of that.

2 A. Well, back in 2009, I would utilize a law
3 enforcement software to monitor and crawl the Gnutella network,
4 searching for IP addresses that were trafficking in child
5 pornography. And it would send me hits on IP addresses in my
6 jurisdiction that were trafficking in child pornography. When I
7 would find one of those IP addresses that it would hit on and
8 show me that it was, then I would utilize a program called Phex,
9 which is a peer-to-peer file sharing software. It's open
10 source, which means anybody can modify it. And it's freely
11 available, and you can modify it.

12 And ICAC had modified Phex to prevent just -- well, to
13 do two things, basically. To prevent any possible way of us
14 accidentally sharing a file off of our computer and uploading a
15 file. So they coded it so it would be impossible to do that.
16 And then made it so it was very easy for us to do a single
17 source download.

18 And a single source download basically is, we would
19 type in the IP address of the suspect that we had in our
20 jurisdiction, and connect to his computer, look at his shared
21 folder, see what he had. And then if we wanted to download some
22 files to see what they were, we would do a single source
23 download, which meant we only downloaded from his computer.
24 Because typically, in peer-to-peer applications, when a regular
25 user clicks to download a file, it downloads it from the

1 original person that they are asking for, and then everybody
2 else that can get it, and downloads it from multiple sources at
3 the same time. That's a speed factor. So it downloads faster.

4 well, as you can imagine, as police we don't want the
5 file from a whole bunch of different people. We want it from
6 our suspect. So they modified the software to just do a single
7 source download, so when we download from that particular IP
8 address, we're getting the whole file from that computer. And
9 it takes longer to download than a regular Swarm does.

10 Q. I have several questions to follow up with you.
11 First is, how does a computer know -- when just an average user
12 is downloading a file, how does a computer know where to go to
13 download it for multiple users?

14 A. When the user clicks on -- now, we're talking
15 non-police, just regular software peer-to-peer -- when you click
16 on a file that showed in your result screen and it has the name
17 Billie Jean mp3, well, it wants to Swarm that file, download
18 it faster.

19 well, just because Billie Jean was in the file name
20 doesn't mean the next file is named Billy Jean is the same file.
21 So they do what's called hatching. Each file has a Shaw value,
22 a hash value, associated with it. So no two Shaws can be alike.
23 So it's a digital fingerprint. The computer systems takes the
24 Billie Jean mp3 file and it runs a computer algorithm against
25 it. And it says, okay, here's your identifying number. And

1 it's a long cluster of characters, and it's called a Shaw value.

2 well what the file sharing network does then -- what
3 the software does is says, okay, we know he wants this file with
4 this Shaw. Go out there and get everybody else that has that
5 same Shaw value, and let's start downloading it. So even though
6 the file name is different, it doesn't care about the file name.
7 The software does not care about the file name. It cares about
8 the Shaw. So then that's how they get their downloads.

9 Q. Are the Shaw values unique?

10 A. Yeah. Shaw values are very unique. I don't
11 believe there is any known file that's ever been shown to have
12 the same Shaw for two different files. And I believe they say
13 the standard is even greater -- it's better than DNA, so --

14 Q. You have been talking about an IP address. And
15 maybe some of us know what an IP address is, but maybe some of
16 us don't. Can you explain that?

17 A. An IP address is basically just a telephone
18 number for your -- your computer at home. Everybody -- you
19 know, nowadays they have, you know, some kind of high speed
20 Internet Comcast modem. Well, Comcast will assign you an IP
21 address for your modem. And that's what's broadcast out --
22 broadcast out to the websites you visit, it's broadcast out
23 different programs you use. And that's how your system is
24 identified.

25 But that's the external IP address. If you have a

1 laptop that's connected to the router or desktop, and you use
2 your iPhone, well, all three of those have their own private IP
3 addresses that are given to them by the router. The modem or
4 the router. But the external IP address that's provided by,
5 let's say Comcast -- that's a unique number for your Internet
6 connection so they can keep track of who owns what.

7 Q. And you indicated before that using the ICAC
8 server and database, that you are able to focus your
9 investigation on a certain geographical area?

10 A. Correct. Back then the way it was done -- and
11 it's all changed now, but I would have the ICAC software that
12 would crawl with Gnutella network to click known IP addresses,
13 trafficking in child porn. And it would save it to the ICAC
14 server. And every other officer all across the country and
15 across the world that's utilizing the same software, law
16 enforcement software, it would send back to populate the ICAC
17 server. So I can say, is there anybody in Dickson, while I was
18 gone for the weekend, that may have been trafficking to look for
19 something that geo-located to Dickson. So I didn't have to be
20 sitting at the computer at the time to get it because somebody
21 else may have done it and populated it. And that's what the
22 server base stuff was for ICAC.

23 Q. So when somebody else is populating it, do you
24 mean other police officers around the country who are doing the
25 undercover investigations?

1 A. Correct.

2 Q. What are you looking for when you do an
3 undercover investigation like that? How do you know what to
4 look for?

5 A. How do we know it's child porn?

6 Q. Right. How do you look for it? I mean, what
7 are you doing as part of your undercover work?

8 A. Well, the software, the law enforcement
9 software, would crawl the Gnutella network searching for Shaw
10 values, the same Shaw values that the network uses to download
11 from several different people. Well, child pornography files
12 have Shaw values. And ICAC knows what those Shaw values are, so
13 it searches for child pornography files. So we're not searching
14 for Hollywood movies. We're not searching for music. We're
15 just searching for child porn. So it will search for all of the
16 child porn files that have the known Shaw values.

17 Q. And what do those files look like -- the file
18 names look like for those kinds of files?

19 A. For child pornography files, the file names get
20 pretty descriptive and pretty long. They go into explicit
21 sexual detail about what you can expect to see when you open the
22 file. They get longer and longer as people add to them. And
23 there's a lot of key words in those file names that we search
24 for.

25 Q. And how do you know what key words to search

1 with?

2 A. Well, initially in my training we were taught,
3 you know, what key words to use to find child porn. Back, you
4 know, if I remember, they taught us about PTHC was a key word
5 that we would use to search for child porn. And I learned that
6 PTHC stood for preteen hard core.

7 we would search for vicky. And vicky is a well-known
8 series of child pornography with one particular girl. The
9 people that traffic in child pornography, somebody gave her the
10 name vicky. And then that name followed around on all the new
11 files and different files that came out. And we call that a
12 series, because it's multiple images, different images,
13 different movies of the same child. And then we just call it
14 the vicky series.

15 And then there's other key word searches like -- a big
16 one is -- a key word search for is incest; pedo, which is
17 p-e-d-o. Some people say pedo, some say peedo. It's short for
18 pedophile. A lot of times they search for particular ages. They
19 type in 9YO, which stand for nine years old. You see a lot of
20 searches like that. And that picks up a lot of files. There's
21 just hundreds and hundreds of key word searches that we use to
22 search for child porn files on the Internet.

23 Q. And are those the same terms that people who are
24 interested in child pornography typically use?

25 A. It is. And as an investigator, I learn more and

1 more search terms. By the more and more downloads that I did,
2 with the new file names coming up, I saw things that I had never
3 seen before. So you get a conglomerate of letters like -- Ray
4 Gold would be not meaningful to anybody, but if you type Ray
5 Gold in, peer-to-peer, pull the files, download some, look at
6 them. And they are a particular series of child pornography.

7 So you learn. The more you work, the more you
8 download, the more you learn. And it's the same way with people
9 that are just actually collecting child pornography.

10 Q. Thank you. I want to turn your attention to the
11 initiation of this investigation. Were you conducting one of
12 these undercover peer-to-peer investigations on April 21 of
13 2009?

14 A. I was.

15 Q. And what specifically did you do that day as a
16 part of that investigation?

17 A. I saw where my law enforcement software
18 indicated to me that an IP address of 98.193.204.170,
19 geo-locating in Dickson County, had been trafficking in child
20 pornography. So I -- when I got in, in the morning, I fired up
21 my peer-to-peer software Phex and typed in that IP address, and
22 hit connect, and I was able to get a connection to the computer.

23 Q. Let me step back for just a moment if I could.

24 A. Okay.

25 Q. What software -- what program were you using

1 that helped you to discover that there was somebody out there in
2 your area?

3 A. GnuWatch.

4 Q. What is GnuWatch?

5 A. GnuWatch is a law enforcement software for ICAC.

6 MS. THOMPSON: I'm sorry, Your Honor. I just didn't
7 hear what he said.

8 THE WITNESS: GnuWatch.

9 BY MS. DAUGHTREY:

10 Q. Could you spell it please?

11 A. G-n-u-w-a-t-c-h, I believe.

12 Q. All right.

13 THE COURT: It's an acronym for what?

14 THE WITNESS: What's that, sir?

15 THE COURT: It's an acronym for what?

16 THE WITNESS: GnuWatch is the name of the software.

17 And I believe they meant to call it after the Gnutella network.

18 BY MS. DAUGHTREY:

19 Q. If I may approach with what has been marked as
20 Government's Exhibit Number 4. Do you recognize this?

21 A. Yes, ma'am.

22 Q. Okay. And what is it?

23 A. These are screen shots, screen captures, that I
24 took on the morning that I was doing the investigation.

25 Q. And is that using the software GnuWatch?

1 A. Correct.

2 MS. DAUGHTREY: Your Honor, at this time I would ask
3 that the government be allowed to hand out the notebooks that
4 have exhibits in them and have the jurors to turn to Exhibit 4
5 or Tab 4 in those notebooks.

6 THE COURT: You may do so.

7 MS. DAUGHTREY: Thank you, Your Honor. Your Honor, at
8 this time I would ask that Exhibit 4 be entered into evidence
9 and the jurors be allowed to turn to Tab 4 only.

10 THE COURT: You may do so. It will be admitted.

11 BY MS. DAUGHTREY:

12 Q. Looking at that first page of the GnuWatch, what
13 is in the upper part of the screen?

14 A. The upper part of the screen is showing current
15 browses. This software would show current connections, actual
16 physical connections, between the software and the suspect
17 computer. And it would also show the browse, what was available
18 in the share folder. It would do that on its own.

19 Q. And is that what's in the bottom half of that
20 screen shot?

21 A. The bottom of that screen is the result that the
22 software got from the suspect computer, in this case
23 Mr. Tummins' computer, showing the file names, the file sizes,
24 and the Shaw value for the files that reside in the shared
25 folder.

1 Q. So these files were located on his computer?

2 A. Correct.

3 Q. And you have one file highlighted on the first
4 page and another one highlighted on the second page. What is
5 the significance of that?

6 A. The software identified those files as suspect
7 child pornography files. And the highlighting is indicating to
8 me that those are my files of interest that I needed to try to
9 download.

10 Q. Did you actually download those files?

11 A. I did, but not in GnuWatch, because GnuWatch
12 doesn't do that. It's just a monitoring software. I did it
13 through Phex.

14 Q. All right. So GnuWatch will not allow you to
15 download?

16 A. No.

17 Q. All right. Is every child pornography file out
18 there one that has been identified? Or are there many that have
19 not been identified?

20 A. No. Many, many have not. When -- when the
21 software would hit on a known child porn file, a known file
22 means that the victim has been identified. That's a known child
23 porn file. Then you have your suspect child porn files, which
24 is obviously child pornography but the victim has not been
25 identified or not known.

1 Q. So you said that once you identified those two
2 items, you then used Phex?

3 A. I used Phex; yes, ma'am.

4 Q. And Phex is the file sharing program or
5 peer-to-peer program you talked about earlier?

6 A. Correct.

7 Q. One that has been modified for law enforcement
8 use for you all?

9 A. Correct.

10 Q. If I may approach and hand you what has been
11 marked as Government's Exhibit 5. Do you recognize the document
12 there?

13 A. Yes, ma'am.

14 Q. And what is that?

15 A. That's a screen capture I made of my Phex
16 software when I connected to Mr. Tummins' computer.

17 Q. And was that the same morning?

18 A. Correct.

19 Q. Would it have been shortly after you had
20 accessed his computer through Gnuwatch?

21 A. Correct.

22 MS. DAUGHTREY: Your Honor, at this time I would ask
23 that Exhibit 5 be entered as an exhibit, admitted into evidence,
24 and that jurors will be allowed to turn to Tab 5.

25 THE COURT: Exhibit 5 will be admitted, and jurors will

1 be allowed to turn to Tab 5.

2 MS. DAUGHTREY: Thank you, Your Honor.

3 BY MS. DAUGHTREY:

4 Q. Looking at that screen shot, it looks a little
5 bit different than GnuWatch?

6 A. Yes, ma'am.

7 Q. Is this what it would look like in a typical
8 file sharing program?

9 A. Yes, ma'am.

10 Q. The images or the filings that are listed there
11 -- are those the same that were listed in GnuWatch?

12 A. Yes, ma'am.

13 Q. And does that include the two images that you
14 actually were talking about earlier that were highlighted in the
15 GnuWatch pages?

16 A. Yes, ma'am.

17 Q. Was it at that point that you downloaded those
18 files?

19 A. Yes, ma'am.

20 Q. All right.

21 THE COURT: Would counsel approach the bench?

22 (Whereupon, a bench conference was held, out of the
23 hearing of the jury, to wit:)

24 THE COURT: This witness has been accepted as one with
25 specialized knowledge. You have been leading him for the last

1 15 to 20 minutes. I think you need to not lead. who, what,
2 when, where.

3 MS. DAUGHTREY: Thank you, Your Honor.

4 (Conclusion of bench conference.)

5 BY MS. DAUGHTREY:

6 Q. Once you downloaded those files, did you
7 actually view them?

8 A. Yes, ma'am.

9 Q. And generally, what was the nature of the
10 content?

11 A. They had pornographic sexual content of children
12 involved in sexual activities.

13 Q. Once you discovered that, did you make any
14 effort to determine where that computer was located?

15 A. Yes, ma'am. After I completed downloads and
16 viewed the files, I applied for a subpoena from a judge to
17 subpoena Comcast to determine who owned that IP address at that
18 date and time.

19 Q. Okay. And were you able to determine who that
20 was?

21 A. Comcast returned on my subpoena, and the
22 subpoena led me to Jeremy Seth Tummins on Saddle Creek Circle in
23 Dickson.

24 Q. Okay. Did you make any effort to find out
25 anything about that person?

1 A. Yes, ma'am. Typically in these investigations,
2 after we get a return from the service provider, Comcast, as to
3 who owned that IP cast at that date and time, I will do
4 surveillance on the house, I will check with the utility
5 companies, do database searches in law enforcement to see if
6 they have criminal history, criminal record, try to figure out
7 who is living in the house. Do searches just on Google trying
8 to find any information I can about the occupants of the house.

9 Q. And was there anything significant that you
10 found?

11 A. I discovered that Jeremy Seth Tummins was a
12 middle school teacher in Dickson.

13 Q. After finding out who was leasing that IP
14 address, what steps did you take in your investigation?

15 A. After that part of the investigation was over,
16 then I applied for a search warrant with a judge to search the
17 residence and any other computer devices in the residence.

18 Q. And that process of obtaining and serving search
19 warrants -- is that something that most law enforcement officers
20 do?

21 A. Most of the time it's investigators that do
22 search warrants. Patrol rarely does search warrants. Usually
23 it's just investigators.

24 Q. But this area of the testimony that we're about
25 to enter in -- that doesn't require any specialized knowledge

1 about peer-to-peer or computer forensics; is that correct?

2 A. No.

3 Q. All right. So turning to the fact part of this,
4 was the search warrant that you got from the judge -- was that
5 for a specific residential address?

6 A. Correct.

7 Q. Okay. And who was it that lived at that
8 address?

9 A. Jeremy Seth Tummins and his wife.

10 Q. And can you tell us the street and the city?
11 Not the street address, just the street.

12 A. Saddle Creek Circle in Dickson.

13 Q. And when did you serve that search warrant?

14 A. On May 18th.

15 Q. And was that 2009?

16 A. Correct.

17 Q. And were you by yourself or with another law
18 enforcement officer?

19 A. I had another detective with me, Detective
20 Patterson.

21 Q. What was his first name?

22 A. John.

23 Q. So was it the two of you that went there?

24 A. Correct.

25 Q. And is John Patterson still with the Dickson

1 County Sheriff's Office?

2 A. No, ma'am. He left law enforcement to go be a
3 school teacher.

4 Q. Okay. All right. So getting back to executing
5 the search warrant, what kind of car did you go in?

6 A. It was an unmarked I believe Crown Victoria.

7 Q. And did you all -- were you wearing a police
8 uniform of any sort?

9 A. I believe we were wearing khaki pants and some
10 kind of polo shirt. I did have a weapon on our side and a badge
11 on our belt, but other than -- not a patrol uniform or anything
12 like that.

13 Q. Okay. Do you typically wear your firearm in the
14 course of your duties?

15 A. Yes, ma'am.

16 Q. Who was home when you arrived at that residence?

17 A. Mr. Tummins and his wife.

18 Q. Do you remember what time of day it was?

19 A. It was about 6:30 in the evening.

20 Q. And did you explain why you were there?

21 A. When I first made contact, I introduced
22 ourselves and told him that I was with the Sheriff's Office, and
23 that we were doing a -- that we were there from the cyber crime
24 unit, and that we were doing an investigation and asked if we
25 could talk. And that's how it got started.

1 Q. Okay. And what were the first questions that
2 you asked him?

3 A. Well, the first questions I asked him was how he
4 was connected to the Internet, which was important to me as an
5 investigator. If they have an open wireless, it's possible that
6 somebody could be piggybacking on their open wireless, and the
7 people in the house don't have any child porn. So I wanted to
8 find out how he was connected. He told me he was connected by a
9 modem, a hard wired modem for Comcast, and took me up to the
10 bonus room to show me how it was connected.

11 Q. Did you tell him what kind of investigation you
12 were conducting?

13 A. In the beginning I told him we were with the
14 cyber crime unit. After I was able to determine that he didn't
15 have an open wireless, I told him that we were doing a child
16 pornography investigation.

17 Q. Is a child pornography investigation considered
18 a cyber crime?

19 A. Yes, ma'am.

20 Q. Did you ask him -- you indicated that he showed
21 you a modem. Did you ask about any computers in the house?

22 A. Yes. Eventually. It wasn't right then at that
23 moment. But I asked where the computers were. He said they had
24 the desktop, which was new. And his wife said she had a laptop
25 downstairs that was hers. And he said he had a laptop that was

1 his. It was up underneath an end table by the computer tower.

2 Q. Okay. And what did you discuss with him once
3 you got in there and told him you were with the ICAC?

4 A. I told him that we had -- that I had downloaded
5 a child pornography file from a computer in his house. I asked
6 him if he knew -- if he had Limewire. And he said, well, I did.
7 And I said, so you know what it is. And he was like, yes.

8 We discussed the files that I had downloaded. I read
9 the file names of one of the files that I had downloaded. He
10 wasn't really forthcoming in the beginning.

11 MS. THOMPSON: Your Honor, may we approach?

12 THE COURT: Yes.

13 (Whereupon, a bench conference was held, out of the
14 hearing of the jury, to wit:)

15 MS. THOMPSON: I guess this whole conversation is
16 recorded. And I would object to them going ahead and having
17 Levasseur testify to what it is that he said at the time.
18 That's hearsay. Even though he's in court, when he repeats back
19 a conversation that he had earlier, that's hearsay, Your Honor.
20 It's on her recording. They can play the recording. It's just
21 a much better -- he is getting ready to summarize right now
22 about whether or not my client was evasive or was not
23 forthcoming. And I object to those type of characterizations.
24 Let them play it for the jury, and let the jury hear what he has
25 to say.

1 MS. DAUGHTREY: Your Honor, the government is permitted
2 to put on the proof in the way they want to. If there is cross
3 examination that Ms. Thompson wants to do, that's perfectly
4 fine. I think all of the statements that Levasseur is making
5 right now are party admissions and discussions in an interview
6 that he had.

7 THE COURT: Some things may be party admissions, but
8 the last one is not an admission. It's his characterization of
9 what he observed.

10 MS. DAUGHTREY: All right.

11 MS. THOMPSON: Your Honor, does the Court agree that
12 when Mr. Levasseur --

13 THE COURT: Well, she can ask him to summarize, but I
14 think characterizations are a separate issue.

15 (Conclusion of bench conference.)

16 BY MS. DAUGHTREY:

17 Q. Mr. Levasseur, or Detective Levasseur, the Court
18 has instructed you not to do any characterizations, so we can
19 summarize what happened that day.

20 THE COURT: I haven't instructed him on anything. I
21 asked you about your questions.

22 MS. DAUGHTREY: I'm sorry, Your Honor.

23 BY MS. DAUGHTREY:

24 Q. Did you ask the defendant whether or not he had
25 downloaded the child pornography?

1 A. I did.

2 Q. And what was his response?

3 A. He stated that he did.

4 Q. He stated that he --

5 A. That he did.

6 Q. That he did. Did he tell you that right away?

7 A. Within a few minutes.

8 Q. How long were you there at the house?

9 A. Approximately two hours.

10 Q. Okay. And what were you doing during that two
11 hour period?

12 A. The initial contact of about ten minutes was the
13 introductions, why we're there, reading of the search warrant.
14 Then I started a forensic preview of the desktop, which I
15 removed the hard drive and hooked to a right blocker and to my
16 forensic laptop. And while I was doing that, we were talking.
17 And then --

18 Q. What is the purpose of doing a preview?

19 A. I was just looking for -- it was to benefit me.
20 I was looking for files that I was looking for. I was looking
21 for child pornography files. It just makes interviewing a whole
22 lot better when you have the file sitting there on the screen.

23 Q. Is that something that you commonly do?

24 A. Something -- it depend on the circumstances.
25 Back then I did. Now not so much.

1 Q. So you said that you did a review and talked
2 with him. Did you do other things while you were there?

3 A. Yeah. I was, you know, collecting and logging,
4 cataloguing the computers, all the external hard drives. There
5 was four or five USB drives and phones and other devices, iPods
6 and stuff. I had to get all the serial numbers and write, you
7 know, a property receipt for all of that. And while I was doing
8 all of that, we were talking.

9 Q. Is that why it took two hours?

10 A. We could have been out probably in about an hour
11 and a half. And about the last half hour were just questions
12 from Mr. Tummins and his wife. They were asking us all kinds of
13 questions.

14 Q. Turning back to the computers, you first talked
15 about a desktop. Where was that desktop?

16 A. The best way I can describe it is a bonus room,
17 like a split level home. There was a short stairway to go up,
18 and then there was like a big room. It was up in that room.

19 Q. Okay. And were there any other computers that
20 were located in that room?

21 A. The laptop, the compact laptop, was located in
22 that room. And then all of the -- most of the external hard
23 drives were located in that room too.

24 Q. Okay. All right. If I may approach and hand
25 you what has been marked as -- actually, I'm sorry. Did you, in

1 fact, collect those two computers?

2 A. Excuse me, ma'am?

3 Q. Did you collect those two computers?

4 A. Yes, ma'am.

5 Q. If I may approach and hand you this exhibit.

6 THE COURT: It would be helpful if you identify the
7 exhibit number.

8 BY MS. DAUGHTREY:

9 Q. This is Government's Exhibit 1. Do you
10 recognize this?

11 A. Yes, ma'am.

12 Q. What is that?

13 A. It's a computer that I collected out of Mr.
14 Tummins' home.

15 Q. And I would like to approach with Exhibit Number
16 2. Do you recognize that?

17 A. Yes, ma'am. It's a laptop I took out of the
18 bonus room with the desktop.

19 Q. And may I approach with Exhibit 6. Do you
20 recognize that?

21 A. Yes, ma'am.

22 Q. What is that?

23 A. Pictures I took.

24 Q. Of what?

25 A. Pictures of inside the bonus room of Mr.

1 Tummins' home, of the computer.

2 MS. DAUGHTREY: Your Honor, at this time I would ask
3 that Exhibits 1, 2 and 6 be entered into evidence.

4 THE COURT: Without objection, it will be admitted.

5 MS. DAUGHTREY: And that the jurors be allowed to turn
6 to Tab Number 6.

7 THE COURT: The jurors may do so.

8 BY MS. DAUGHTREY:

9 Q. On the first page, there are two pictures. Can
10 you tell us what that first top picture is?

11 A. The first picture is standing away from the
12 computer desk, just showing the computer screen and the mouse.

13 Q. All right. And the second picture?

14 A. The second picture shows the computer tower, the
15 Gateway, down in the little space for it down there, I guess the
16 little cubby.

17 Q. And is that the Exhibit 1 that you have right
18 there?

19 A. Correct.

20 Q. And turning to the second page, what is that top
21 picture?

22 A. The computer sitting on the stand here.

23 Q. Okay. And where was that picture taken?

24 A. In the computer forensics lab.

25 Q. Is that where you do your work?

1 A. Yes, ma'am.

2 Q. And that second picture -- what is that of?

3 A. A picture of a laptop.

4 Q. And is that in his home or in your lab?

5 A. Say again, ma'am?

6 Q. Is that picture taken in his home or in your
7 laboratory?

8 THE COURT: Why don't you say --

9 THE WITNESS: That picture is incorrect.

10 BY MS. DAUGHTREY:

11 Q. Oh.

12 A. The picture on the paper is the wife's laptop.
13 And the picture on the desk here is the one that was up in the
14 bonus room.

15 Q. Okay. Where did you find the wife's laptop?

16 A. It was down in the kitchen, dining area of the
17 house, down -- not far from the bonus room.

18 Q. Okay. And did you ask about who used that
19 laptop?

20 A. Ms. Tummins volunteered that the laptop down
21 there was hers, and she used it for her school work and stuff
22 like that. Mr. Tummins stated that they both used the tower.
23 And he said that this computer was his old -- the laptop was his
24 old computer that he had back when he was going to Austin Peay
25 when he was in college. He said it got viruses on it and shut

1 down on him. He referred to it as his old computer.

2 MS. DAUGHTREY: Your Honor, if I may ask for the
3 computer to be set down on the floor in another location. I'm
4 not sure if that's blocking the jurors' view.

5 THE COURT: You may.

6 MS. DAUGHTREY: Thank you, sir.

7 BY MS. DAUGHTREY:

8 Q. So did you ask the defendant how long he had
9 been looking at child pornography?

10 A. I did numerous times. And he told me that he
11 remembered downloading child pornography back to when he was in
12 college. And that would have put it in a -- about a three year
13 time frame, because he was -- he had just got hired on as a
14 teacher, he graduated from college the year prior to that. So
15 it was about a 2006 to 2009 time frame, is what he told me when
16 I was at his house.

17 Q. Okay. And did he tell you what he was doing
18 specifically?

19 A. He said that he downloaded child pornography
20 because he wanted to see what was out there. I pressed him as
21 to -- once he admitted that he downloaded child pornography, I
22 asked him why, why did you download child pornography. There's
23 got to be a reason why. And he said that he downloaded child
24 pornography because he wanted to see what was out there in the
25 world, and that he -- he couldn't believe what he was seeing.

1 At one point in the conversation he described a child
2 pornography file that he said they were young children, and he
3 described what was going on, and he said it was just horrid.
4 Then later on he described another child pornography movie file
5 that he had downloaded and watched. And he said that it was so
6 bad that he watched it again later on because he didn't believe
7 that people actually did that.

8 And I believe there were three occasions where he
9 described child pornography video files that he had downloaded
10 and watched that I wasn't able to recover off his computer.

11 Q. Did he tell you what he would do with them after
12 he watched them?

13 A. He said he would delete them.

14 Q. Did you ask Ms. Tummins if she had been involved
15 with child pornography?

16 A. I did. She stated that she didn't download any
17 child pornography, she didn't know anything about child
18 pornography. She stated she used the computer, but denied any
19 knowledge of child pornography.

20 Q. Ms. Thompson said something in opening statement
21 about your getting training to get people to confess. Do you
22 have any training in interviewing witnesses?

23 A. No, ma'am.

24 Q. Do you, in your investigations, ever attempt to
25 get written statements from defendants or suspects?

1 A. Yes, ma'am.

2 Q. Okay. Does your organization encourage you to
3 do that?

4 A. Yes, ma'am.

5 Q. Do they have a policy about how they want you to
6 do that?

7 A. Yes, ma'am.

8 Q. And can you tell us about that?

9 A. The policy at Dickson County Sheriff's
10 Department is the officer writes the statement for the person
11 that's giving the statement, and then we have them -- we read
12 the statement to them, and then we have them read it to ensure
13 that it's totally what they are wanting to say, and then they
14 sign it saying that it's a true and accurate statement.

15 Q. Did you do something like that in this case?

16 A. Yes, ma'am.

17 Q. If I may approach and hand the witness what has
18 been marked as Government's Exhibit 7. Thank you. Do you
19 recognize this document?

20 A. Yes, ma'am.

21 Q. What is it?

22 A. It's the statement that I wrote out for
23 Mr. Tummins, and he signed it.

24 MS. DAUGHTREY: Your Honor, at this time I would ask
25 that this be entered into evidence as Government's Exhibit 7 and

1 that the jury be allowed to flip to Tab 7.

2 THE COURT: Exhibit 7 will be admitted. And the jury
3 may do so.

4 BY MS. DAUGHTREY:

5 Q. where did you get the information that you
6 included in the statement when you wrote it?

7 A. Through all of the conversation that we had,
8 prior to me asking him if he would give me a written statement,
9 it was an hour and -- about an hour and a half that we had
10 talked.

11 Q. Did you talk to him about the statement as you
12 were writing it, the content of it?

13 A. Yes, ma'am.

14 Q. Okay. And --

15 A. I told him that -- when I was writing the
16 statement, I said, you know, I like to surmise on statements and
17 just put hard facts, bullet points. But I don't want to put
18 anything in your mouth. I'm going to write it out, and you tell
19 me if that's what want to say from the stuff we talked about
20 earlier. And I wrote it out. A couple of times I quoted to him
21 what I was going to write. And he was like, no, that's not what
22 I meant. So then we reworded it and redid it to what he wanted,
23 and finished it out, and I read it to him, and then I had him
24 read it and sign it.

25 Q. So you went over the content with him as you

1 wrote it?

2 A. Correct.

3 Q. And who signed the statement at the bottom by
4 the X?

5 A. Detective John Patterson.

6 Q. And above that, whose signature is there?

7 A. Mr. Tummins'. He signed it J. S. Tummins.

8 Q. And were you present when he signed it?

9 A. I couldn't hear you, ma'am.

10 Q. Were you present when he signed it?

11 A. Yes, ma'am.

12 Q. You are hard of hearing, aren't you?

13 A. Yes, ma'am. I have a hearing aid, but sometimes
14 they don't do that good.

15 Q. All right. I would like to turn your attention
16 back to your expertise as a computer forensic analyst and
17 working as a child exploitation investigator. What did you do
18 with the computers after you seized them from his house?

19 A. I returned them back to my computer forensics
20 lab and removed the hard drives from the computers, and attached
21 them to a write blocker to prevent any data being written to the
22 hard drive so no changes are made to it from the state that it
23 was in. And making a forensic copy of the hard drive for me to
24 work with. Once the forensic copy is made, then I put the
25 original hard drive back in the computer and put the computer in

1 the evidence room. And then I do all of my examination off of
2 my copy.

3 Q. what is the reason for doing that?

4 A. So we don't alter anything that's on the
5 suspect's computer, change any files or any data, and don't
6 damage it in any way to preserve it for evidence.

7 Q. okay. what about the preview that he did at his
8 -- that you did at his house?

9 A. The preview at his house, I -- I was very
10 distracted on talking to him and it wasn't very -- I didn't come
11 up with anything because of where the files were. And I didn't
12 go look in that particular spot. So it was -- it didn't help me
13 doing a preview at the house.

14 Q. Did you make any changes to the computer while
15 you did that preview?

16 A. No, because doing a preview, I did the same
17 thing. I connected it to a physical write blocker so that no
18 data can be changed on the suspect drive.

19 Q. what does it mean to make a forensic image of a
20 computer or a hard drive?

21 A. A forensic image is different than making a copy
22 of your computer. A lot of people know they make a back-up copy
23 of their computer, or they clone their drive so that -- they
24 clone their drive to another hard drive. well, those are all
25 logical, and it copies the files and everything that's live on a

1 system. And not the deleted space, not the free space.
2 unallocated space.

3 A forensic copy, it copies a hard drive. Every bit,
4 every one and every zero from the beginning of the hard drive to
5 the end of the hard drive, it copies it out. And it makes it --
6 it's in a forensic format. So after the copy is made, you
7 couldn't plug the forensic copy into the computer and boot the
8 computer up, because that's not what it does. It puts it in a
9 format. It chunks it out into chunks the way I do it so it can
10 compress it some.

11 And then you have to use some type of software to mount
12 the image to access it. So it's just forensic computer geek
13 stuff.

14 Q. Okay. How do you know that it's an exact copy
15 of the computer that you took from the home?

16 A. The Shaw values that we were talking about, the
17 hash values, saying that no two are alike. We use -- in
18 computer forensics it's called MD-5 hash values. It's the same
19 concept as a Shaw-1 value. The software that you are using to
20 copy the drive will run a hash across the entire hard drive that
21 you are going to be copying and gets the value. And it copies
22 the hard drive onto your hard drive that you are using. And
23 once the transfer is complete, it hashes it again over on yours.

24 And in order for it to be an identical match, the hash
25 values need to match. So if the hash values didn't match, it

1 means something changed on that drive while it was being imaged.
2 which is possible, but typical with a write blocker, a physical
3 write blocker, you are not going to have that problem.

4 Q. And did you verify the hash values?

5 A. The hash values were verified; yes, ma'am.

6 Q. You mentioned something about using some kind of
7 forensic software to look at the forensic image?

8 A. Yes, ma'am.

9 Q. Can you tell us what you used?

10 A. There's numerous types, but back then on this
11 case I used FTK. It's short for Forensic Tool Kit by a company
12 called Access Data. And it's called a forensic suite. It has a
13 bunch of tools in it to parcel out data for you to assist you in
14 doing your examination.

15 Q. And when did you do this examination of these
16 computers?

17 A. My report is dated in June 19th. So that would
18 be when I finished the exams.

19 Q. All right. And June 19 of 2009?

20 A. Correct.

21 Q. Okay. How long does it take to analyze this
22 kind of evidence?

23 A. It depends. It really depends on a lot of
24 factors. It depends on the size of the hard drive. For
25 instance, a laptop I believe was only a 60 gigabyte hard drive.

1 So the desktop was 640 gigabytes. So it takes longer to examine
2 a bigger hard drive versus a smaller one. Like all of the
3 external hard drives that I collected, they all contained
4 photographs, belonging to Mr. Tummins. He's like -- there is a
5 -- photography is a hobby or semipro. They were filled with
6 digital photographs. Something like that is real easy to
7 eliminate as not having evidence. So it doesn't take long to do
8 that.

9 Kind of like Ms. Tummins' computer, if there is no
10 child pornography on it, then it's a typical, you know, two day
11 -- two day job to examine it, and then it's done. A computer
12 that has child pornography on it, it takes a considerable longer
13 time because then you have to find the metadata to find out who
14 is responsible for the child porn.

15 Q. What do you mean by metadata?

16 A. Metadata is data about data. Just looking for
17 data on the computer to link a particular person to the illegal
18 files.

19 Q. Did you find any pornography of any kind on the
20 laptop computer that the defendant's wife had used?

21 A. None.

22 Q. Okay. What did you do with that computer once
23 discovered there was no child pornography?

24 A. I returned all of the devices as quick as I got
25 done with them. I believe the iPods or iPhones and the external

1 hard drives and her computer I returned as soon as I got done
2 with them. I don't remember exactly when that was, but it would
3 have been a couple of weeks probably.

4 Q. Okay. I would like to turn first to the Gateway
5 tower computer, the Exhibit 1 that we have already talked about.
6 When you did your forensic exam, did you determine when that
7 computer had been manufactured?

8 A. Yes. It was manufactured in 2008, sometime in
9 the spring of 2008.

10 Q. And did you determine when the operating
11 software -- operating system software was installed?

12 A. Windows Vista was installed back in November --
13 November 15, 2008.

14 Q. So how long was that before you arrived at the
15 house and took the computer?

16 A. It was about five months.

17 Q. Were you able to tell whether or not that
18 computer was used on a regular basis?

19 A. Yes, it was.

20 Q. Was there an owner, any kind of information
21 about an owner for the computer?

22 A. The user profile that was used to access the
23 computer was default as owner.

24 Q. So when you are doing an examination of a
25 computer in a child pornography case, how do you start your

1 examination?

2 A. The first thing I do is, of course, create the
3 image. And then I use a Forensic Tool Kit to index the drive
4 for me. What that means basically is it indexes all of the
5 files on the computer, regardless of where they are at. If they
6 have been deleted, if they are in an unallocated space, if they
7 are in folders, files. And it separates out different files for
8 me. It will throw all of the images found on the computer in
9 one bucket for me, and all the videos in another bucket, and all
10 the word documents in another. And so it's easy for me to go in
11 and look for certain files.

12 And I will go in, in a child pornography case, and I
13 will look at all of the image files on the computer looking for
14 child pornography and then look at all of the videos on the
15 computer, looking for child pornography. That's how it starts.

16 THE COURT: Ladies and gentlemen, we're going to take
17 our afternoon break. You have been sitting a while. We had a
18 little bit of a break without a hearing. So it will be about a
19 ten minute recess. Please don't discuss the case amongst
20 yourselves until you receive all of the evidence, the argument
21 of counsel, and the charge of the court. You can leave your
22 pads on your seats. The Marshal will look out for them. Thank
23 you.

24 (Jury out.)

25 THE COURT: We're in recess.

1 (Recess.)

2 THE COURT: You may be seated. You can bring the jury
3 in.

4 (Jury in.)

5 THE COURT: You may be seated. All right, ladies and
6 gentlemen of the jury. We'll continue with the examination of
7 this witness.

8 Counsel?

9 CONTINUED DIRECT EXAMINATION

10 BY MS. DAUGHTREY:

11 Q. Detective Levasseur, just before the break, you
12 were discussing the beginnings of your examination of the
13 computer. And you mentioned deleted space and unallocated
14 space. Is there a difference between those two?

15 A. No, it's just the terminology that I use.
16 Unallocated space is space that's available to be used.

17 Q. And after those files are put into the folders
18 that you were talking about, what do you do after that?

19 A. Are you talking about my forensic software?

20 Q. Yes.

21 A. I look at all of the image files on the computer
22 and determine, you know, if there's any suspect files. And then
23 all of the video files, play all of the video files to see if
24 there is any child porn.

25 Q. Okay. And do you do anything else with those

1 files if you think that they might be problematic?

2 A. I do what's called bookmarking. If I find a
3 suspect child pornography file, I bookmark it in my forensic
4 software. It's just like a place holder. And that way I can
5 come back to it later and it's easy to find.

6 Q. And you mentioned metadata earlier in your
7 testimony. Do you do any work with metadata at this point?

8 A. Well, after I get the child pornography files,
9 there is -- each exam is different, how I navigate through,
10 start -- it all depends on what I find in the beginning. But
11 typically, after I find child pornography files, then I try to
12 find out who is responsible for the child pornography file.
13 Even if I have a confession, I want to go in and make sure that
14 the confession was legitimate. So I start looking at overall
15 computer use of the computer and if those particular files that
16 I bookmarked were manipulated in any way, like being viewed, or
17 transferred from one device to another, or something like that.

18 Q. Okay. We talked about when you initiated this
19 investigation, it was a peer-to-peer investigation. Did you
20 find any peer-to-peer software on either of these two computers?

21 A. On both of them.

22 Q. And I guess focusing on the Gateway tower, what
23 kind of file sharing or peer-to-peer software did you find?

24 A. It was the -- it was Limewire system files that
25 I found on there. If I remember correctly, the actual

1 executable file had been deleted, but the folder structure was
2 still there, and I was able to get property files for Limewire
3 out of unallocated space, showing the installation and other
4 stuff like that.

5 If I remember correctly, I found some traces of
6 BitTorrent and Morpheus on the tower.

7 Q. Are all of those file sharing programs?

8 A. Different file sharing applications, yes.

9 Q. You said something about the executable had been
10 deleted. What do you mean by that?

11 A. The actual program itself. I'm not a hundred
12 percent sure if it was deleted, but if my memory serves me, I
13 think it was. And I think Mr. Tummins told me that he deleted
14 it.

15 Q. Are there different versions of Limewire?

16 A. Yeah, there's a lot of different versions of
17 Limewire. I mean, it dates back. There's just numerous
18 different versions.

19 Q. Why are there different versions of something?

20 A. Limewire would just upgrade or change the code
21 and update stuff, and then it be a different version. And if
22 they had -- you know, like windows gets bugs in them, then
23 windows will put out a patch to patch your windows, well,
24 Limewire would just issue a new version of its software.

25 Q. Were you able to tell what version of Limewire

1 had been on that computer?

2 A. I was. I found a properties file showing that
3 the last known good version was 4.8 -- I think it was 4.8. I
4 think it was 4 -- 4.18.1.

5 Q. How is it that somebody gets something like
6 Limewire onto their computer?

7 A. You need to download it.

8 Q. Have you prepared some slides to help show how
9 to download and set up Limewire?

10 A. Yes, I have.

11 Q. If I may hand you what has been marked as
12 Government's Exhibit 8. The slides that you prepared -- were
13 they for the specific version of Limewire that you found on
14 Mr. Tummins' computer?

15 A. It is.

16 Q. Okay. Do you recognize that document?

17 A. Do I recognize what, ma'am?

18 Q. Do you recognize that document?

19 A. Yes, ma'am.

20 Q. Okay. And what is that?

21 A. I made an exhibit by -- I downloaded Limewire
22 4.18.18 and installed it. And as the installation progress
23 happened, I took screen captures that you need to take to
24 download and install Limewire.

25 Q. And what period of time did you do that? when

1 did you do that?

2 A. I think last week.

3 MS. DAUGHTREY: Your Honor, at this time I would ask
4 that -- the government has marked as an exhibit for
5 identification, it's a demonstrative exhibit, and I would ask
6 that we be given permission to show the jurors the slides and
7 put them up on the overhead.

8 THE COURT: What is the exhibit number, please?

9 MS. DAUGHTREY: It's Exhibit 8.

10 THE COURT: Without objection, Exhibit 8 will be
11 admitted. The jury may so do.

12 MS. DAUGHTREY: Thank you, Your Honor.

13 BY MS. DAUGHTREY:

14 Q. Okay. And this is the first slide. Will you
15 explain what this? Walk us through this.

16 A. After you would download Limewire, if you went
17 to your download location and clicked on it, double clicked on
18 it, this installation box would pop up.

19 Q. Okay. And what is second slide?

20 A. It asks you to select a language. And then it
21 tells you thank you for choosing Limewire, the most advanced
22 file sharing program on the planet. Limewire basic is a free
23 product. If you paid for this, you have been scammed. Please
24 download Limewire at the official website. And then you've got
25 a Next button or a Cancel button.

1 Q. This next slide?

2 A. This slide shows where it wants to default, load
3 the file. It's showing that it wants to send it to program
4 files x-86 in Limewire folder. And this on -- I installed this
5 on a windows 7 machine. So windows Vista would be the same, but
6 XP would be different. As far as the by-86 location. And it
7 says:

8 Setup will install Limewire in the following folder.
9 To install it in a different folder, click browse and select
10 another folder, click install, and start the installation.

11 So it tells you that's where it's going to install it,
12 but you can install it somewhere else.

13 This capture shows after you click Next, it starts
14 unpacking the executable and loading the file.

15 The next one shows you that you are done. It says:

16 Thank you for installing Limewire. The Run Limewire
17 box is checked. You can uncheck it and click Finish, and then
18 it would just go away. But if click Finish with the Run click,
19 then Limewire would start.

20 So clicking Next with the folder -- I mean, the box
21 checked, it would come up to Save Folders and Share Folders. It
22 says: Please choose a folder where you would like your files to
23 be downloaded. You can also choose folders you would like to
24 share with other users running Limewire. And it fills in a
25 default location, where if you just click Use Default, it will

1 use a default, or you can browse and choose whichever location
2 you want. And then you can click Next.

3 The next screen shows miscellaneous settings. It says:
4 Below are several options that affect the performance of
5 Limewire.

6 It wants you to choose your network speed, whether you
7 are broadband or dial-up. It wants to know if you want it to
8 start automatically when your computer turns on. And it also:
9 Content filtering, Limewire can filter files that copyright
10 owners request not be shared by enabling filtering. You are
11 telling Limewire to confirm all files you download or share with
12 a list of removed content. You can change this at any time.

13 It's not checked by default. You would have to check
14 it. Then you click Next. And then it showed sharing
15 extensions. It asks you to select type files that you want to
16 share using Limewire, in default they are all checked, and you
17 can go in there and uncheck certain files you didn't want to
18 share. And then you click Next.

19 And the screen says: State your intent. One more
20 thing. You are almost done. State your intent below and start
21 using Limewire. Limewire Basic and Limewire Pro are
22 peer-to-peer programs for sharing authorized files only.
23 Installing and using either program does not constitute a
24 license for obtaining or distributing unauthorized content.

25 And then you have to click the radio button there that

1 says: I will not use Limewire for copyright infringement. And
2 once you click and fill that circle in, then the next button
3 will appear. And then Limewire actually opens up in the
4 application and starts. And that's -- when you start Limewire,
5 minus the pop-up box in the center, that's what you would see.

6 Q. Can you explain what this slide is about?

7 A. This slide is an example of, after a search term
8 was typed in, what would happen. And the search term example is
9 the Terminator. And it's up where the red arrow is. And it's
10 showing that it has 109 hits from other computers saying, I have
11 a file with the name Terminator in it. And then you look in the
12 results window. And it shows the file name, the file type, the
13 file size. So you can look in there. So if you were looking
14 for Terminator the movie, you could highlight where it's
15 highlighted in blue, Movie the Terminator, and either double
16 click on that to start the download, or highlight it and click
17 the download button in the mid-page, and the file would start to
18 download. And you can see the progress of it downloading down
19 at the bottom of the screen.

20 Q. I believe this the last slide.

21 A. The last one showing the search screen. On the
22 left-hand side you have -- you can select individual file types
23 like audio files, video files, or programs, or images, or
24 documents, or all. And in the block, you type in your key word
25 that you want to search for. And after you get your key word or

1 key words typed in, you click search, and that would bring you
2 to that page that we were just on a second ago.

3 Q. You've got a third word there at the bottom.
4 what is that?

5 A. I can't hear you, ma'am.

6 Q. You've got the third red arrow at the bottom.
7 what is that?

8 A. The arrow at the bottom is showing -- it says,
9 view my zero shared files. So if you had files that you were
10 sharing, if you had ten of them, it would say, view my ten
11 shared files. And also right below it, the red button would
12 give the number of files that you are sharing in that button.
13 So every time that you are on Limewire, you can see right there
14 on the screen that you are actually sharing the files, how many
15 files you are sharing.

16 Q. Thank you. Can you search for file names or
17 search terms on Limewire?

18 A. Search terms? You can type anything that you
19 want on Limewire. I mean, --

20 Q. When you put in the search terms on that last
21 page that we had, are those saved anywhere in Limewire?

22 A. Some versions yes, some versions no. Older
23 versions of Limewire saved them real beautiful. And you could
24 collect them. The newer versions of Limewire didn't, and you
25 had to go scrounge through unallocated space to get them. The

1 actual search terms themselves in this version of Limewire are
2 not saved pretty in a file. You have to go get them.

3 Q. what do you mean by go get them?

4 A. They are in an unallocated space. They have
5 been -- they are either in an unallocated space or in a page
6 file, and you go -- as a computer examiner, you are searching
7 for the search terms that somebody used to search for.

8 Q. Okay. Did you find any search terms on the
9 Gateway computer that were put into Limewire?

10 A. I did.

11 Q. If I may approach and hand you what has been
12 marked as Exhibit 9. Do you recognize that?

13 A. I do.

14 Q. What is that?

15 A. It's the search terms that I recovered off the
16 computer.

17 Q. And there is a second page to that. Is that
18 part of the same --

19 A. The second page shows just the raw data,
20 including the search term, with the raw data that comes right
21 off the computer.

22 MS. DAUGHTREY: All right. Your Honor, at this time I
23 would ask permission to enter Exhibit 9 into evidence and to
24 allow the jurors to turn to that tab.

25 THE COURT: Exhibit 9 will be admitted, and the jurors

1 may do so.

2 BY MS. DAUGHTREY:

3 Q. So you have two different set of search terms
4 here. Can you explain what that is?

5 A. In searching for the search terms in unallocated
6 space, I'm getting chunks of data from the Limewire application,
7 and it will explain that they were searching for a video. So a
8 key word search was used to search for video, or a key word
9 search was used to search for an image. And it's just
10 different. On the top of the page you've got the video
11 searches. On the bottom of the page you've got the image
12 searches.

13 Q. In the second page, can you explain what that
14 shows in the first example?

15 A. That's the data that I pulled out of the
16 suspect's computer showing the correlation between the Limewire
17 program and showing a video title that was searched for equals
18 daughter or PTHC or school girl or mom pedo or preteen boys.

19 Q. So that's for several of them, but not all?

20 A. Correct. That's --

21 Q. What is Mafia sex?

22 A. Mafia sex is a well-known series like we talked
23 about before, of child pornography.

24 Q. And there's also some unfamiliar things in
25 there, Masha, Dee and Desi. What are those things?

1 A. Masha is also a series, it's a particular child.
2 Dee and Desi is another, two girls that are always in films
3 together being abused. But that's a series. And the others are
4 generalized terms like the years, school girl. There are some
5 in there that are not indicative to child pornography, but those
6 were just all the terms that I pulled out.

7 Q. And what is PTHC?

8 A. Preteen hard core.

9 Q. And then there is something toward the bottom of
10 the page, LSM?

11 A. LSM is a -- it's actually a series. It's a
12 Russian series. And I think, if memory serves me correctly, it
13 stands for Lolita Super Models, something like that.

14 Q. When you examined this computer, did you see any
15 of the files that you had downloaded on April 21, 2009 when you
16 were doing your undercover work?

17 A. Yes.

18 Q. Okay. And where did you find those?

19 A. The video files that I downloaded I located in
20 the recycle bin.

21 Q. Were you able to tell how those files had gotten
22 onto that computer? How do these files that you had downloaded
23 get onto the computer that you were examining?

24 A. From Limewire.

25 Q. If I may approach and hand you Government's

1 Exhibits Number 10 and 11. And turning first to Exhibit 10, do
2 you recognize that information?

3 A. I do.

4 Q. And what was that?

5 A. These are sample files downloaded using Limewire
6 that were found in the recycle bin.

7 Q. And what kind of files were they?

8 A. They are all pornography files.

9 Q. Are they image files? video files?

10 A. They are video files.

11 MS. DAUGHTREY: Your Honor, at this time I would ask
12 Exhibit 10 to be admitted and the jurors be permitted to look at
13 Tab 10.

14 THE COURT: Exhibit 10 will be admitted. The jurors
15 may do so.

16 BY MS. DAUGHTREY:

17 Q. When somebody has a video file and they delete
18 it, what happens to that file?

19 A. When they delete it, it goes in the recycle bin.
20 Not much of anything. It just sits in the recycle bin. When
21 they empty the recycle bin, it goes out, and it doesn't actually
22 go anywhere. But the space that it was residing in becomes
23 available for use from the operating system.

24 And video files are rather large, and they don't
25 typically get saved on the same location on the hard drive. So

1 once they are totally deleted, if any part of them gets
2 overwritten a little bit, getting it to play back is next to
3 impossible. So they are really hard to recover.

4 Q. Looking at Exhibit 10, within which of the files
5 are the ones that you downloaded on April 21?

6 A. In Exhibit 10, the one that I downloaded I
7 believe is going to be the second file down called Family
8 Sex-13YO Brother Fucks 11YO Sister And Sperm Inside.mpeg. And
9 the other file would be the first one on the page, and -- well,
10 it would have been the last one on the page, because it was
11 fully downloaded. And that would be Lolita Sex Movie-Best
12 Teens-Marianna-Danish Teen, 14YO Fucked Outside-Holland Porno
13 One, full minute 16 second Lolita Network NL.npeg.

14 Q. Is that on Page 1 or Page 2 of that exhibit?

15 A. It would be on Page 2. There is a file name
16 that has the same file name, but you can see it was deleted from
17 the incomplete folder. And you can't download from an
18 incomplete folder, so that's not going to -- even though it has
19 the same file name, that's not the file that I downloaded. I
20 downloaded the file on the last page.

21 Q. What does it mean when something was in an
22 incomplete folder?

23 A. Say again?

24 Q. What does it mean when something was in an
25 incomplete folder?

1 A. Limewire -- how it works, when you install
2 Limewire on your computer, it makes two folders -- either a
3 saved or a shared folder or an incomplete folder. And when you
4 tell it to download a file, it downloads a file from somebody
5 else or a bunch of other people, and it downloads it into the
6 incomplete folder to start with. And once the file is
7 completely downloaded, then it transfers it from the incomplete
8 folder to your saved or your shared folder for your use.

9 The reason for that is, if you lose Internet
10 connection, or the person that you are downloading from gets off
11 the network, you can't download any more from them, so it stops
12 that file download. Well, it saves that file in the incomplete
13 folder, and it just continually waits until it can find somebody
14 out there that has that file. When it finds it, then it
15 continues to download it. And then once it's complete, it puts
16 it in the save folder.

17 Now, as a user, you can go into the incomplete folder
18 and look at the files that are there, and you may be able to
19 view videos, depending on how much of the video is downloaded
20 and it's not that corruptible. So you have access as a user to
21 the incomplete folder. But once file is completed downloaded,
22 Limewire moves it to your save or your share folder.

23 Q. Looking at this exhibit, at the first file that
24 you downloaded -- which is the second one on this list; is that
25 correct?

1 A. Exhibit 10?

2 Q. Yes.

3 A. The second one down?

4 Q. The second one down.

5 A. Yes.

6 Q. There is information about a file name, an
7 original name, extension creation date, modification date. Can
8 you explain what each of those -- ?

9 A. That's stuff my forensic software gave me. The
10 file name is what windows renamed it when it went to the recycle
11 bin. And that file name is the recycle bin name, basically.
12 And then it shows the original location and the original file
13 name that the file was. And shows an extension that it's an
14 .mpeg, it's a movie file. It shows a creation date, then a
15 modified date. And from the recycle bin, the user would just
16 simply have to click on it and click restore to put it back in
17 its original state. That's why all this information is kept.

18 Q. Is there any significance here to the creation
19 and modification date?

20 A. The creation date is significant in that that's
21 when the file was downloaded. The modification date is going to
22 be when the download completed, more than likely. Dates and
23 times, they are what they are. But typically, the creation date
24 is the date that the file started to download. And the modified
25 date will be the time that it completed its download.

1 Q. Turning to Exhibit Number 11, what is that? Do
2 you recognize that?

3 A. These are additional files found within the
4 recycle bin on the tower.

5 Q. They don't have all that information?

6 A. No.

7 Q. Were they in the same place as those other ones
8 were?

9 A. Just a different format, how I pulled it out.

10 MS. DAUGHTREY: Your Honor, at this time I would ask
11 that Exhibit 11 be entered into evidence and that the jurors be
12 allowed to turn to that tab.

13 THE COURT: Without objection, Exhibit 11 will be
14 admitted. The jury may do so.

15 BY MS. DAUGHTREY:

16 Q. And where do most of these files originate from?

17 A. The files are showing original file passed from
18 the Limewire folders, the incomplete and the save folder. Some
19 of them came from just different folders -- document folder,
20 downloads folder. But the vast majority of them from the
21 Limewire folder.

22 Q. Were you able to look at any of these videos?

23 A. Say again?

24 Q. Were you able to look at any of these videos?

25 A. Yes.

1 Q. And what was the content of those videos?

2 A. Pornography.

3 Q. And were all these files found in the recycle
4 bin?

5 A. That's correct.

6 Q. Is it unusual, in your experience investigating
7 these cases, to find files like that, that get deleted?

8 A. No, ma'am.

9 Q. Why not?

10 A. In my experience, I see mainly two types of
11 people with --

12 MS. THOMPSON: Your Honor, I object. May we approach?

13 THE COURT: All right.

14 (Whereupon, a bench conference was held, out of the
15 hearing of the jury, to wit:)

16 MS. THOMPSON: I object to him and the direction this
17 is going without further foundation. He says there's only two
18 types of people, and that's -- it's categorizing things.

19 THE COURT: Well, I will allow him to testify as to the
20 extent of his experience only.

21 (Conclusion of bench conference.)

22 BY MS. DAUGHTREY:

23 Q. I had asked you about whether it was unusual to
24 see pornography files deleted. And I asked is that unusual and
25 asked you why.

1 A. Because they are not --

2 THE COURT: No, sir. In your experience with respect
3 to files that are deleted and the cases you worked on, what does
4 it reflect?

5 THE WITNESS: The exams that I performed, Your Honor?

6 THE COURT: Yes. In your experience.

7 THE WITNESS: In my experience? Are you talking about
8 what do I find in my experience?

9 THE COURT: What do they reflect?

10 THE WITNESS: I can't hear Your Honor.

11 THE COURT: What do they reflect? That was the
12 question. In your experience, when they delete files like that,
13 what does that mean?

14 THE WITNESS: Concealment.

15 THE COURT: Next question.

16 BY MS. DAUGHTREY:

17 Q. Okay. Those files that were in the recycle bin,
18 could anyone have accessed them?

19 A. Anybody can access the recycle bin. But in
20 order to look at the files, you would have to unrecycle them.
21 You would have to restore them back to the computer.

22 Q. How many files like these did you find on this
23 computer? How many file names?

24 A. Several. I mean, they are all listed.

25 Q. Okay. If somebody were to log onto that

1 computer right now, would they be able to find child pornography
2 on that computer?

3 A. I mean, just as a normal user?

4 Q. Yes.

5 A. No, they would have to go in the recycle bin and
6 restore the files that are in the recycle bin.

7 Q. Did the user of this computer do any Google
8 searches on the computer?

9 A. Yes, ma'am.

10 Q. And were you able to determine what kind of
11 search terms were used?

12 A. Yes, ma'am.

13 Q. If I may approach, I hand you -- let me hand you
14 three exhibits -- 12, 13 and 14. And I would like to start with
15 Exhibit 12. Do you recognize that?

16 A. Yes, ma'am.

17 Q. What is that?

18 A. Those are the search terms that were typed into
19 the -- into Google.

20 MS. DAUGHTREY: Your Honor, at this time I would ask
21 that Exhibit 12 be entered into evidence and for the jurors to
22 be allowed to look at Tab 12.

23 THE COURT: Without objection, Exhibit 12 will be
24 admitted. The jurors may do so.

25 BY MS. DAUGHTREY:

1 Q. And what is on the first page specifically?

2 A. It's a list of search terms: Accidental
3 Cheerleader Flash, Accidental Cheerleader Nudity, High School
4 Basketball Cheerleader, High School Cheerleader, High School
5 Cheerleader Nudity, Tight Panties, Alien Sex, Small Penis Sex,
6 Ass Crack Sex, Young Teen Sex.

7 Q. And what does Page 2 of that exhibit represent?

8 A. Page 2 is just showing the raw data where I
9 located those search terms at. Most of them came from the page
10 file, .sys file. It just shows that it -- like if you look in
11 the middle of the paper, it says images. That's going to be
12 html code, I think. It says equals, and, and safe equals off.
13 Google has safe search where you can put safe search on so you
14 don't see any nudity or anything like that. Well, that was off,
15 so obviously, if you are searching for young teen sex, safe
16 search would be off. The query, the search, was Young Teen Sex.
17 And it adds that plus sign in between the terms. The coding
18 does that. Not the user.

19 Q. So what would the user have specifically typed
20 for that search term?

21 A. Young teen sex. Young Space teen space sex.

22 Q. You mentioned something about page file that is
23 on that page. What is page file?

24 A. Page file is just -- it's like a temporary space
25 allocated on your hard drive. You have RAM on your computer.

1 And RAM is Random Access Memory that keeps everything that you
2 are using pretty much now available for you for speed-wise. And
3 that RAM gets filled up and dumped off onto your hard drive into
4 a part of your hard drive. windows provide it. And you can
5 adjust it as a user. It provides a certain amount of space to
6 access as memory, as random access memory, on the hard drive
7 itself. So you find a lot of browser Internet traffic, stuff
8 like that, in the page file.sys.

9 Q. And turning to -- I'm going to skip Exhibit 13
10 for a moment and looking at Exhibit 14, do you recognize that?

11 A. Number 13, you said?

12 Q. 14.

13 A. 14? Yes, ma'am.

14 Q. And what is that?

15 A. These are samples of file names recovered out of
16 the page file.sys.

17 Q. So that's the file you were just talking about?

18 A. Yes, ma'am.

19 Q. And what is the implication of these?

20 A. These are all file names that are indicative of
21 child pornography.

22 Q. where did they come from?

23 A. They are showing the file paths and the file
24 names. And the file paths are showing Limewire, save folders,
25 and basically coming from the Limewire application.

1 Q. Let me turn you back to -- let me ask one more
2 question. Is this all of the page file.sys?

3 A. No, ma'am. I just pulled out examples. There's
4 lots, lots more.

5 Q. How much more?

6 A. A lot more than this. I couldn't give you a
7 page count of how much.

8 Q. Turning back to Exhibit 13, do you recognize
9 that exhibit?

10 A. Yes, ma'am.

11 Q. And what is that?

12 A. I was able to go into windows registry and
13 extract out the recently viewed files for Media Player. Windows
14 saves the last eight files that Media Player plays, as a record.
15 And if you play another one, then the last one drops off. So we
16 only get the last eight files.

17 MS. DAUGHTREY: Your Honor, at this time I would like
18 to ask to enter Exhibit 13 and allow the jurors to turn to that
19 tab.

20 THE COURT: Without objection, Exhibit 13 will be
21 admitted, and the jurors may do so.

22 BY MS. DAUGHTREY:

23 Q. What exactly is windows Media Player?

24 A. Windows Media Player is just a video or a music
25 player that is native to windows.

1 Q. Can you tell when these videos were watched?

2 A. All eight of these videos were played on Media
3 Player.

4 Q. But do you know when they were played?

5 A. I don't know.

6 Q. Does the file give you that information?

7 A. No, ma'am.

8 Q. Okay. And where were these files located when
9 they were watched?

10 A. The first four of them are showing that they
11 were in a Limewire -- the first two were in the Limewire saved
12 folder. The third one was in the incomplete folder. The fourth
13 one was in the save solder. Five, six and seven are going to be
14 files that were played from a temp directory. And then the last
15 two are from the Limewire save folder.

16 Q. Thank you. I want to talk to you about how this
17 computer was used. Is it possible that these file names got on
18 to this computer by accident?

19 A. No, ma'am.

20 Q. Why not?

21 A. Because you have to download them from Limewire.

22 Q. If someone were looking for adult porn, would
23 you expect to find these file names and files on this computer?

24 A. No, ma'am.

25 Q. Was this computer used for other things than

1 viewing pornography?

2 A. Yes, ma'am.

3 Q. What kind of things were done with this
4 computer?

5 A. There was daily activity on the Internet. There
6 was -- it was used -- a lot of that photography that Mr. Tummins
7 was into. There was -- I believe it had some documents
8 pertaining to his sixth grade. It was used just as a general
9 use computer.

10 Q. How did you know that Mr. Tummins was interested
11 in photography?

12 A. Well, one, he told me. And two, I found, I
13 mean, all of his work.

14 Q. If I may approach and hand you Exhibit 15. Do
15 you recognize this document?

16 A. Yes, ma'am.

17 Q. What is it?

18 A. It's an exhibit I made showing some of the
19 documents and other things I extracted off his computer.

20 Q. And can you tell us what each of these
21 documents --

22 A. The first one appears --

23 Q. I'm sorry. Let me interrupt you. Your Honor, I
24 would ask that this be entered into evidence as Exhibit 15 and
25 allow the jurors to turn the tab.

1 THE COURT: Without objection, Exhibit 15 may be
2 admitted. The jurors may do so.

3 BY MS. DAUGHTREY:

4 Q. My apologies for interrupting. Can you tell us
5 what each of these documents are?

6 A. The first one is an open Office document. And
7 it appears to be some kind of test for sixth grade language
8 arts, which is the class that Mr. Tummins taught.

9 The second one down there is a -- some type of little
10 program that I found that's called Family Tree Maker. And there
11 is a database file within that program that says Tummins Auto
12 Backup.

13 The next one on the second page was part of an email
14 that I extracted out showing -- it said, Dear Jeremy Tummins,
15 Seth Tummins, your payment was successfully made. And it's
16 showing a payment of \$350 for a 10 by 10 booth at a Firefly Fine
17 Arts Festival.

18 Then on the bottom, I found another document that was
19 written, and it appears to be about a first person account of
20 Mr. Tummins -- part of his life.

21 On the next page is part of an email from Hotmail,
22 where he writes: My name is Jeremy Seth Tummins, and I'm a
23 registered user. So it shows that. I was able to pull out some
24 of those Hotmail fragments. And below that showing Wells Fargo
25 online, a Jeremy S. Tummins. And that's going to be part of his

1 Hotmail account, too.

2 And then on the last page, part of the email for the
3 Firefly Fine Art Festival, he types: I thought I missed a
4 deadline. And is the extended email, or am I just really late?
5 Then he signed it JST, Jeremy Seth Tummins.

6 Q. Where were these materials located?

7 A. Some of the materials were located in folders,
8 you know, My Documents folder or whatever. The email I pulled
9 out of the page file or unallocated space. The documents and
10 the Family Tree and stuff were in like the My Documents folder
11 area.

12 Q. I'm going to ask you just a couple of final
13 questions about this computer. Did you find anything with
14 Mrs. Tummins' name on it?

15 A. Just a tax return. Some tax return documents.
16 As far as any other type document on there, I didn't.

17 Q. Was it a single tax return or a joint tax
18 return?

19 A. Joint.

20 Q. Who appeared to be the primary user of this
21 computer?

22 A. Mr. Tummins.

23 Q. And what do you base this conclusion on?

24 A. All the Internet activity on a daily basis
25 that's got to do with photography and art and the stuff that he

1 was into. And there was a little bit of other activity that I
2 could see a woman doing rather than a man, but it was pretty
3 consistent.

4 Q. Like what?

5 MS. THOMPSON: Your Honor, I object.

6 THE COURT: Sustained.

7 BY MS. DAUGHTREY:

8 Q. So the only use you could find that Ms. Tummins
9 used might have been an Internet?

10 A. Correct.

11 Q. And were you able to determine -- in your
12 opinion, examining this computer, would an ordinary user have
13 been able to tell that anyone had used this computer to download
14 or view child pornography?

15 A. Can you say that again, ma'am?

16 Q. I'm sorry. After examining this computer, would
17 an ordinary user have been able to tell that anyone had used the
18 computer to download or view child pornography?

19 A. No, ma'am.

20 MS. DAUGHTREY: Your Honor, I'm happy to continue.
21 This a good breaking point if you would like to break for the
22 day.

23 THE COURT: No, ma'am. You can continue.

24 MS. DAUGHTREY: All right.

25 BY MS. DAUGHTREY:

1 Q. All right. The next thing I would like to do is
2 continue to the Compaq laptop computer. And could you tell us
3 again where that computer was found?

4 A. In the same bonus room where the desktop was
5 located.

6 Q. Where in the bonus room was it?

7 A. It was underneath a wooden end table that was
8 right beside the other computer.

9 Q. Okay. Did you examine this computer in the same
10 way that you did the other computer?

11 A. I did.

12 Q. All right. And when was the operating system
13 software last installed on the Compaq computer?

14 A. November 17, 2008.

15 Q. How does that relate to when the operating
16 system on the desktop computer -- ?

17 A. Within a couple of days of each other. The
18 desktop was November 15th, and the laptop was November 17th.

19 Q. And could you tell whether or not this
20 installation was an initial installation or was a
21 reinstallation?

22 A. It was a reinstallation.

23 Q. What's the difference between those?

24 A. Reinstallation is somebody takes the windows
25 disk, puts it in a computer, and says, Install windows. And it

1 will install it over the top of the old windows.

2 Q. what is the effect on the computer? what is the
3 effect on the files on the computer?

4 A. well, some files get overwritten, but most of
5 the files will be available in unallocated space. But that
6 happened a little differently on this one.

7 Q. And what do you mean by that?

8 A. well, from my exam, it appears that the computer
9 had issues, and somebody took all the files off the computer and
10 reinstalled windows on the 17th. And after the installation was
11 complete, then they transferred all the files back at one time
12 into one location on the computer, because you've got thousands
13 of files with the same exact creation time. So that's logically
14 what happened.

15 Q. In your experience, why would somebody do a
16 reinstallation on their computer?

17 A. Most of the times you reinstall windows because
18 your computer has froze up or a virus caused it to seize up.
19 That's the first thought that you get as to why people install
20 windows. People install windows to get rid of things and just
21 start fresh or to hide evidence. But in this case I believe
22 there was a virus that caused the computer to hose up, and
23 windows files were extracted and put on an external device,
24 windows was installed fresh, and then the files were moved back
25 on.

1 Q. Is it possible -- I retract that.

2 were you able to tell how often the computer had been
3 used after this reinstallation?

4 A. It wasn't used very much. It was used
5 sporadically after the reinstall of windows.

6 Q. Was there a registered owner on this computer?

7 A. The current user was default owner. But the
8 prior user profile was called Seth.

9 Q. All right. So I'm going to turn and talk about
10 what was found on the laptop computer. Were there any file
11 sharing programs on that computer?

12 A. There were.

13 Q. And which specific peer-to-peer or file-sharing
14 programs were there?

15 A. One that gleaned the most data was Morpheus.
16 But I found remnants of Limewire folders and BitTorrent also.

17 Q. How does Morpheus compare to Limewire?

18 A. It's just another type of file-sharing
19 application.

20 Q. Is it similar to Limewire?

21 A. Yes. It works the same concept.

22 Q. Were you able to determine whether or not there
23 were any key word searches that were used with Morpheus on that
24 computer?

25 A. Yes, ma'am.

1 Q. All right. If I may approach and hand you
2 Government's Exhibit 16. Do you recognize -- ?

3 A. Yes, ma'am.

4 Q. And what is that?

5 A. These are the Morpheus search terms that I got
6 off the laptop computer.

7 MS. DAUGHTREY: Your Honor, at this time I would ask
8 permission to enter Exhibit 16 into evidence and request that
9 the jurors be allowed to turn to the tab.

10 THE COURT: Without objection, Government Exhibit 16
11 will be admitted, and the jurors may do so.

12 BY MS. DAUGHTREY:

13 Q. This exhibit looks a little bit different than
14 the last one. Can you explain what this is?

15 A. Morpheus is different than Limewire. And I'm
16 not -- this coding from -- I got this in unallocated space.
17 This is coding from the Morpheus. And it's showing --
18 apparently the program writes down in human readable format key
19 word search for -- you know, like for example, high school,
20 finish with 52 results. And it gives a hit like that for its
21 program. So I was able to get this out of unallocated space and
22 associate it with the Morpheus program.

23 Q. What do the 52 results mean?

24 A. I would -- I don't know for sure, but it would
25 be obvious to me that he did a search, and he got -- like in

1 Limewire, when you get back your results, you have 109 files for
2 terminator. This would be 52 results showed up for High School.

3 Q. Do you know why the key word search for Youth
4 would finish with zero results, or key word search for Sex would
5 finish with zero results?

6 THE COURT: Are those search terms on that laptop
7 computer?

8 MS. DAUGHTREY: Yes, Your Honor.

9 THE COURT: Well, it's the witness who answers,
10 counsel.

11 MS. DAUGHTREY: I'm sorry. I'm sorry.

12 BY MS. DAUGHTREY:

13 Q. If you could read nine -- or ten lines down.

14 A. Yes, ma'am.

15 Q. And could you read that out loud, please, for
16 the record?

17 A. Key word search for Youth, finish with zero
18 results.

19 Q. And there are others like that, too; is that
20 correct?

21 A. Correct.

22 Q. What is that about?

23 A. They got zero results on that search term.

24 Q. Okay. All right. Did you find that any files
25 had been downloaded using the Morpheus file sharing program?

1 A. Yes, ma'am.

2 Q. If I may approach with Exhibit 17 for the
3 witness. Thank you. Do you recognize this exhibit?

4 A. I do, ma'am.

5 Q. And what is that?

6 A. Files downloaded using Morpheus on the Compaq
7 laptop computer. And this actually going to be an extraction of
8 the thumbs database file, showing the file names and file times
9 of all the files that were in that folder.

10 Q. What is a thumbs DB?

11 A. A thumbs database file -- if you log into your
12 computer and you got to the -- let's say you go to My Pictures
13 folder. And you open My Pictures folder. You are going to see
14 little representations of all your pictures so you can visually
15 look to see what picture you want to open up. And it's the same
16 with movie files. There is a little visual representation as to
17 what the little movie is. That's called a thumbnail. It's a
18 windows system file, and it's its own little database file.

19 And it keeps a record of the files that are put into
20 that particular location, when they were put there, and the file
21 name of the file. So that thumbs DB database holds the actual
22 visual representation of the file plus the metadata about the
23 time file. But it's a system hidden file. You, as a user, you
24 don't see it in there.

25 If you were to change your computer settings to show

1 all hidden and system files, and then you go into your My
2 Pictures folder, on windows XP you would see a little obscured
3 thumbs DB database file. It's hidden from the user, but it
4 contains and keeps a log of everything that goes into that
5 directory.

6 So it logs the file name and the last modified time,
7 which is the creation time, and it keeps a record of it. So
8 let's just say you have 50 pictures in your My Pictures folder,
9 and you looked at them in thumbnail view, and then you
10 highlighted them all and said Delete, and you deleted all the
11 pictures. Well, all of those representations of those pictures,
12 and all the information about them, are still in your My
13 Pictures folder in a thumbs database file. So even though they
14 got deleted, we can still tell that they were there, and we can
15 tell what they were.

16 MS. DAUGHTREY: Your Honor, at this time I would ask
17 that Exhibit 17 be entered into evidence and that the jurors be
18 allowed to turn to the tab.

19 THE COURT: Without objection, Government's Exhibit 17
20 will be admitted. The jurors may do so.

21 BY MS. DAUGHTREY:

22 Q. Are these all of the files that were found in
23 this database?

24 A. Yes, ma'am.

25 Q. Were there associated thumbnail files with them?

1 A. Yes, ma'am.

2 Q. You stated earlier that with Limewire a user has
3 to click something to download a file. Is that also true for
4 Morpheus?

5 A. Yes, ma'am.

6 Q. Okay. And when a user is looking at -- using
7 Morpheus and doing a search, what do they see once the search is
8 complete?

9 A. File names. Similar to Limewire.

10 Q. Okay. Similar. So would the person who was
11 using this computer had to have picked and chosen these files to
12 download?

13 A. Yes, ma'am.

14 Q. Is it possible they could have downloaded
15 accidentally?

16 A. No, ma'am.

17 Q. Where were the files located on the computer?

18 A. The video files were located in the Morpheus
19 shared/downloads directory, which would have been Document and
20 Settings folder, Owner folder, My Documents folder, and then
21 inside that, Morpheus Shared, and then inside Morpheus Shared,
22 Downloads folder.

23 Q. Is that a normal place for Morpheus files to be
24 located?

25 A. Yes, ma'am.

1 Q. Okay. I would like to approach with Exhibit
2 Number 18. Do you recognize this document?

3 A. Yes, ma'am.

4 Q. What is it?

5 A. It's additional files located on a laptop Compaq
6 computer.

7 Q. Where did you find this information?

8 A. I want to say -- give me just a second. I got
9 those from the My Documents folder. There was a shared folder
10 inside of the My Documents folder.

11 Q. So were these files actually on that computer?

12 A. Yes.

13 Q. Okay. And do you know what the shared folder
14 means?

15 A. It comes from -- it could have been user
16 created, but more likely than not it was created by Limewire or
17 another type file-sharing application. It's not in a typical
18 directory that it normally would be. If it was belonging to an
19 application, it would be with that application, but it could
20 have been moved. That shared directory is not default in the My
21 Documents folder. So it's either user created or a user moved
22 it there from somewhere else.

23 Q. Okay. Is there any significance to the dates
24 that are there -- the creation date, modification date, act
25 date?

1 A. well, it's part of the mass file transfer that I
2 was talking about before. All the files were moved back onto
3 the computer all at once after windows was installed on
4 11/17/2008. Because all of the creation times for all these
5 files are all the same for that date. But if you look at the
6 modified time of the file, they are different, they are all
7 different. well, the modified time would actually be the
8 original creation date of the file. And the creation time is
9 the new creation time when it got moved back onto the computer.

10 MS. DAUGHTREY: Your Honor, I'm not certain if I asked
11 that that be entered into evidence. If not, I ask that it be
12 entered into evidence at this time.

13 THE COURT: Which exhibit?

14 MS. DAUGHTREY: I'm sorry, Exhibit 18.

15 THE COURT: Without objection, Government's Exhibit 18
16 will be admitted.

17 BY MS. DAUGHTREY:

18 Q. I would like to hand you Exhibit 19. Do you
19 recognize this?

20 A. Yes, ma'am.

21 Q. What is it?

22 A. It's the most recent files viewed using Windows
23 Media Player on the Compaq laptop.

24 Q. Is that similar to the exhibit we saw for the
25 Gateway computer?

1 A. Yes, ma'am.

2 Q. And what does that represent?

3 A. It represents the last eight files that were
4 played in Media Player.

5 MS. DAUGHTREY: At this time I would like to ask that
6 Exhibit 19 be admitted into evidence and that the jurors be
7 allowed to turn to that.

8 THE COURT: Exhibit 19 will be admitted. And the
9 jurors may do so.

10 BY MS. DAUGHTREY:

11 Q. If I may approach and hand you Exhibit 20 and
12 ask if you recognize this.

13 A. Yes, ma'am.

14 Q. What is that?

15 A. It's a list of files found in unallocated space
16 on the Compaq laptop.

17 MS. DAUGHTREY: Your Honor, I would ask that this be
18 entered into evidence as Exhibit 20 and published to the jury by
19 allowing them to turn to the tab.

20 THE COURT: Exhibit 20 will be admitted. And the jury
21 may do so.

22 BY MS. DAUGHTREY:

23 Q. Were these files that were on the computer?

24 A. Yes, ma'am.

25 Q. And if you could read the first line of the

1 data, about halfway through.

2 A. The first one?

3 Q. Yes.

4 A. It's the file -- it says: Failed to share file,
5 Illegal Pedo Kiddie, Fuck Kiddie, Child Sex, Relief Porn.

6 Q. I'll stop you there. What does that fail to
7 share mean?

8 A. I believe that the sharing capabilities on
9 Morpheus were disabled --

10 MS. THOMPSON: Your Honor, he said I believe. As long
11 as it's something he knows and it's not speculating.

12 THE COURT: Sustained. Sustained.

13 MS. THOMPSON: Ladies and gentlemen of the jury, we're
14 going to call it a day. We lost about a half an hour with out
15 of court conferences, so we're going to try to make up for that.
16 If you will turn your pads in to the Marshal, he will take
17 custody of them until you return tomorrow. Your seat number is
18 on the back of your pad. Please don't discuss the case amongst
19 yourselves until you receive all of the evidence, the argument
20 of counsel, and the charge of the Court. Please do not engage
21 in any type of electronic research or communications concerning
22 this case or any of the persons involved in the case.

23 If you will come back shortly before 9:00, we'll try to
24 get started promptly. You are free to go. You can leave your
25 exhibits books in the jury room. They will lock it up.

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(Jury out.)

THE COURT: We're in recess.

(Conclusion of proceedings on February 24, 2015.)

* * * * *

REPORTER'S CERTIFICATE

I, Peggy G. Turner, Official Court Reporter for the United States District Court for the Middle District of Tennessee, with offices at Nashville, do hereby certify:

That I reported on the Stenograph machine the proceedings held in open court on February 24, 2015, in the matter of USA v. JEREMY SETH TUMMINS, Case No. 3:10-00009; that said proceedings in connection with the hearing were reduced to typewritten form by me; and that the foregoing transcript, Pages 1 through 115, is a true and accurate record of said proceedings.

This the 7th day of April, 2015.

Peggy G. Turner
S/Peggy G. Turner, RPR
Official Court Reporter